



January 25, 2012

HOUSE BILL No. 1132

DIGEST OF HB 1132 (Updated January 23, 2012 2:34 pm - DI 92)

Citations Affected: IC 6-1.1.

Synopsis: Controlled projects. Adds a definition of "cost to be financed" to the controlled projects statute. Defines the term as meaning, for a preliminary determination to issue bonds or enter into a lease made by a political subdivision after June 30, 2012, the cost of a project minus the cash committed to payment for the project by the political subdivision itself, the federal government, and any other entity contributing to the project. Restates the thresholds in current law differentiating between controlled projects that are subject to the petition and remonstrance process and those that are subject to the referendum process in terms of the controlled project's cost to be financed instead of the controlled project's cost. Makes a technical correction.

Effective: July 1, 2012.

**McNamara, Richardson,
Steuerwald, Yarde**

January 9, 2012, read first time and referred to Committee on Ways and Means.
January 25, 2012, amended, reported — Do Pass.

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HB 1132—LS 6309/DI 113+



January 25, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1132

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 6-1.1-20-0.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 0.5. As used in this chapter, "cost**
4 **to be financed" means the following:**
5 (1) **For a preliminary determination to issue bonds or enter**
6 **into a lease made before July 1, 2012, the cost of a project.**
7 (2) **For a preliminary determination to issue bonds or enter**
8 **into a lease made after June 30, 2012,**
9 (A) **the cost of a project; minus**
10 (B) **the sum of:**
11 (i) **the cash available to a political subdivision that was**
12 **reserved exclusively for expenditure on the project's**
13 **costs in a resolution or ordinance adopted by the proper**
14 **officers of the political subdivision;**
15 (ii) **money received in the form of a donation or a grant**
16 **for expenditure on the project's costs from an entity not**
17 **controlled by the political subdivision; and**

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1 **(iii) money for a project attributable to a grant**
 2 **commitment or similar instrument from an agency or**
 3 **affiliate of the federal government that reimburses the**
 4 **political subdivision for the political subdivision's**
 5 **expenditures on the project.**

6 SECTION 2. IC 6-1.1-20-1.1, AS AMENDED BY P.L.146-2008,
 7 SECTION 188, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2012]: Sec. 1.1. As used in this chapter,
 9 "controlled project" means any project financed by bonds or a lease,
 10 except for the following:

11 (1) A project for which the political subdivision reasonably
 12 expects to pay:

13 (A) debt service; or

14 (B) lease rentals;

15 from funds other than property taxes that are exempt from the
 16 levy limitations of IC 6-1.1-18.5 or (before January 1, 2009)
 17 IC 20-45-3. A project is not a controlled project even though the
 18 political subdivision has pledged to levy property taxes to pay the
 19 debt service or lease rentals if those other funds are insufficient.

20 (2) A project ~~that will not cost of~~ the political subdivision ~~more~~
 21 **than whose cost to be financed will not exceed** the lesser of the
 22 following:

23 (A) Two million dollars (\$2,000,000).

24 (B) An amount equal to one percent (1%) of the total gross
 25 assessed value of property within the political subdivision on
 26 the last assessment date, if that amount is at least one million
 27 dollars (\$1,000,000).

28 (3) A project that is being refinanced for the purpose of providing
 29 gross or net present value savings to taxpayers.

30 (4) A project for which bonds were issued or leases were entered
 31 into before January 1, 1996, or where the state board of tax
 32 commissioners has approved the issuance of bonds or the
 33 execution of leases before January 1, 1996.

34 (5) A project that is required by a court order holding that a
 35 federal law mandates the project.

36 (6) A project that:

37 (A) is in response to:

38 (i) a natural disaster;

39 (ii) an accident; or

40 (iii) an emergency;

41 in the political subdivision that makes a building or facility
 42 unavailable for its intended use; and

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- 1 (B) is approved by the county council of each county in which
 2 the political subdivision is located.
- 3 (7) A project that was not a controlled project under this section
 4 as in effect on June 30, 2008, and for which:
- 5 (A) the bonds or lease for the project were issued or entered
 6 into before July 1, 2008; or
- 7 (B) the issuance of the bonds or the execution of the lease for
 8 the project was approved by the department of local
 9 government finance before July 1, 2008.
- 10 SECTION 3. IC 6-1.1-20-3.1, AS AMENDED BY P.L.198-2011,
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2012]: Sec. 3.1. (a) This section applies only to the following:
- 13 (1) A controlled project (as defined in section 1.1 of this chapter
 14 as in effect June 30, 2008) for which the proper officers of a
 15 political subdivision make a preliminary determination in the
 16 manner described in subsection (b) before July 1, 2008.
- 17 (2) An elementary school building, middle school building, or
 18 other school building for academic instruction: ~~that:~~
- 19 (A) ~~that~~ is a controlled project;
- 20 (B) ~~that~~ will be used for any combination of kindergarten
 21 through grade 8;
- 22 (C) ~~that~~ will not be used for any combination of grade 9
 23 through grade 12; and
- 24 (D) ~~will not whose cost to be financed more than will not~~
 25 ~~exceed~~ ten million dollars (\$10,000,000).
- 26 (3) A high school building or other school building for academic
 27 instruction: ~~that:~~
- 28 (A) ~~that~~ is a controlled project;
- 29 (B) ~~that~~ will be used for any combination of grade 9 through
 30 grade 12;
- 31 (C) ~~that~~ will not be used for any combination of kindergarten
 32 through grade 8; and
- 33 (D) ~~will not whose cost to be financed more than will not~~
 34 ~~exceed~~ twenty million dollars (\$20,000,000).
- 35 (4) Any other controlled project ~~of a political subdivision: that:~~
- 36 (A) ~~that~~ is not a controlled project described in subdivision
 37 (1), (2), or (3); and
- 38 (B) ~~will not whose cost the political subdivision more than to~~
 39 ~~be financed will not exceed~~ the lesser of the following:
- 40 (i) Twelve million dollars (\$12,000,000).
- 41 (ii) An amount equal to one percent (1%) of the total gross
 42 assessed value of property within the political subdivision

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- 1 on the last assessment date, if that amount is at least one
 2 million dollars (\$1,000,000).
- 3 (b) A political subdivision may not impose property taxes to pay
 4 debt service on bonds or lease rentals on a lease for a controlled project
 5 without completing the following procedures:
- 6 (1) The proper officers of a political subdivision shall:
- 7 (A) publish notice in accordance with IC 5-3-1; and
 8 (B) send notice by first class mail to the circuit court clerk and
 9 to any organization that delivers to the officers, before January
 10 1 of that year, an annual written request for such notices;
 11 of any meeting to consider adoption of a resolution or an
 12 ordinance making a preliminary determination to issue bonds or
 13 enter into a lease and shall conduct a public hearing on a
 14 preliminary determination before adoption of the resolution or
 15 ordinance. **After June 30, 2012, the resolution or ordinance**
 16 **making a preliminary determination to issue bonds or enter**
 17 **into a lease must include a provision that specifies the**
 18 **amounts of the political subdivision's cash the political**
 19 **subdivision is reserving exclusively for expenditure on the**
 20 **controlled project, if any.**
- 21 (2) When the proper officers of a political subdivision make a
 22 preliminary determination to issue bonds or enter into a lease for
 23 a controlled project, the officers shall give notice of the
 24 preliminary determination by:
- 25 (A) publication in accordance with IC 5-3-1; and
 26 (B) first class mail to the circuit court clerk and to the
 27 organizations described in subdivision (1)(B).
- 28 (3) A notice under subdivision (2) of the preliminary
 29 determination of the political subdivision to issue bonds or enter
 30 into a lease for a controlled project must include the following
 31 information:
- 32 (A) The maximum term of the bonds or lease.
 33 (B) The maximum principal amount of the bonds or the
 34 maximum lease rental for the lease.
 35 (C) The estimated interest rates that will be paid and the total
 36 interest costs associated with the bonds or lease.
 37 **(D) For a preliminary determination to issue bonds or**
 38 **enter into a lease made after June 30, 2012, the amounts of**
 39 **the political subdivision's cash reserved exclusively for**
 40 **expenditure on the controlled project, if any.**
 41 ~~(E)~~ (E) The purpose of the bonds or lease.
 42 ~~(F)~~ (F) A statement that any owners of property within the

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1 political subdivision or registered voters residing within the
 2 political subdivision who want to initiate a petition and
 3 remonstrance process against the proposed debt service or
 4 lease payments must file a petition that complies with
 5 subdivisions (4) and (5) not later than thirty (30) days after
 6 publication in accordance with IC 5-3-1.

7 ~~(F)~~ (G) With respect to bonds issued or a lease entered into to
 8 open:

9 (i) a new school facility; or

10 (ii) an existing facility that has not been used for at least
 11 three (3) years and that is being reopened to provide
 12 additional classroom space;

13 the estimated costs the school corporation expects to incur
 14 annually to operate the facility.

15 ~~(G)~~ (H) A statement of whether the school corporation expects
 16 to appeal for a new facility adjustment (as defined in
 17 IC 20-45-1-16 (repealed) before January 1, 2009) for an
 18 increased maximum permissible tuition support levy to pay the
 19 estimated costs described in clause ~~(F)~~: (G).

20 ~~(H)~~ (I) The political subdivision's current debt service levy and
 21 rate and the estimated increase to the political subdivision's
 22 debt service levy and rate that will result if the political
 23 subdivision issues the bonds or enters into the lease.

24 (4) After notice is given, a petition requesting the application of
 25 a petition and remonstrance process may be filed by the lesser of:

26 (A) one hundred (100) persons who are either owners of
 27 property within the political subdivision or registered voters
 28 residing within the political subdivision; or

29 (B) five percent (5%) of the registered voters residing within
 30 the political subdivision.

31 (5) The state board of accounts shall design and, upon request by
 32 the county voter registration office, deliver to the county voter
 33 registration office or the county voter registration office's
 34 designated printer the petition forms to be used solely in the
 35 petition process described in this section. The county voter
 36 registration office shall issue to an owner or owners of property
 37 within the political subdivision or a registered voter residing
 38 within the political subdivision the number of petition forms
 39 requested by the owner or owners or the registered voter. Each
 40 form must be accompanied by instructions detailing the
 41 requirements that:

42 (A) the carrier and signers must be owners of property or

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1 registered voters;

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

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

4 swear or affirm before a notary public that the carrier

5 witnessed each signature; and

6 (D) govern the closing date for the petition period.

7 Persons requesting forms may be required to identify themselves

8 as owners of property or registered voters and may be allowed to

9 pick up additional copies to distribute to other owners of property

10 or registered voters. Each person signing a petition must indicate

11 whether the person is signing the petition as a registered voter

12 within the political subdivision or is signing the petition as the

13 owner of property within the political subdivision. A person who

14 signs a petition as a registered voter must indicate the address at

15 which the person is registered to vote. A person who signs a

16 petition as an owner of property must indicate the address of the

17 property owned by the person in the political subdivision.

18 (6) Each petition must be verified under oath by at least one (1)

19 qualified petitioner in a manner prescribed by the state board of

20 accounts before the petition is filed with the county voter

21 registration office under subdivision (7).

22 (7) Each petition must be filed with the county voter registration

23 office not more than thirty (30) days after publication under

24 subdivision (2) of the notice of the preliminary determination.

25 (8) The county voter registration office shall determine whether

26 each person who signed the petition is a registered voter. The

27 county voter registration office shall, not more than fifteen (15)

28 business days after receiving a petition, forward a copy of the

29 petition to the county auditor. Not more than ten (10) business

30 days after receiving the copy of the petition, the county auditor

31 shall provide to the county voter registration office a statement

32 verifying:

33 (A) whether a person who signed the petition as a registered

34 voter but is not a registered voter, as determined by the county

35 voter registration office, is the owner of property in the

36 political subdivision; and

37 (B) whether a person who signed the petition as an owner of

38 property within the political subdivision does in fact own

39 property within the political subdivision.

40 (9) The county voter registration office shall, not more than ten

41 (10) business days after receiving the statement from the county

42 auditor under subdivision (8), make the final determination of the

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1 number of petitioners that are registered voters in the political
 2 subdivision and, based on the statement provided by the county
 3 auditor, the number of petitioners that own property within the
 4 political subdivision. Whenever the name of an individual who
 5 signs a petition form as a registered voter contains a minor
 6 variation from the name of the registered voter as set forth in the
 7 records of the county voter registration office, the signature is
 8 presumed to be valid, and there is a presumption that the
 9 individual is entitled to sign the petition under this section. Except
 10 as otherwise provided in this chapter, in determining whether an
 11 individual is a registered voter, the county voter registration office
 12 shall apply the requirements and procedures used under IC 3 to
 13 determine whether a person is a registered voter for purposes of
 14 voting in an election governed by IC 3. However, an individual is
 15 not required to comply with the provisions concerning providing
 16 proof of identification to be considered a registered voter for
 17 purposes of this chapter. A person is entitled to sign a petition
 18 only one (1) time in a particular petition and remonstrance
 19 process under this chapter, regardless of whether the person owns
 20 more than one (1) parcel of real property, mobile home assessed
 21 as personal property, or manufactured home assessed as personal
 22 property, or a combination of those types of property within the
 23 **political** subdivision and regardless of whether the person is both
 24 a registered voter in the political subdivision and the owner of
 25 property within the political subdivision. Notwithstanding any
 26 other provision of this section, if a petition is presented to the
 27 county voter registration office within forty-five (45) days before
 28 an election, the county voter registration office may defer acting
 29 on the petition, and the time requirements under this section for
 30 action by the county voter registration office do not begin to run
 31 until five (5) days after the date of the election.

32 (10) The county voter registration office must file a certificate and
 33 each petition with:

34 (A) the township trustee, if the political subdivision is a
 35 township, who shall present the petition or petitions to the
 36 township board; or

37 (B) the body that has the authority to authorize the issuance of
 38 the bonds or the execution of a lease, if the political
 39 subdivision is not a township;

40 within thirty-five (35) business days of the filing of the petition
 41 requesting a petition and remonstrance process. The certificate
 42 must state the number of petitioners that are owners of property

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1 within the political subdivision and the number of petitioners who
 2 are registered voters residing within the political subdivision.
 3 If a sufficient petition requesting a petition and remonstrance process
 4 is not filed by owners of property or registered voters as set forth in this
 5 section, the political subdivision may issue bonds or enter into a lease
 6 by following the provisions of law relating to the bonds to be issued or
 7 lease to be entered into.

8 (c) This subsection applies only to a political subdivision that, after
 9 April 30, 2011, adopts an ordinance or a resolution making a
 10 preliminary determination to issue bonds or enter into a lease subject
 11 to this section and section 3.2 of this chapter. A political subdivision
 12 may not artificially divide a capital project into multiple capital
 13 projects in order to avoid the requirements of this section and section
 14 3.2 of this chapter.

15 SECTION 4. IC 6-1.1-20-3.5, AS AMENDED BY P.L.113-2010,
 16 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2012]: Sec. 3.5. (a) This section applies only to a controlled
 18 project that meets the following conditions:

19 (1) The controlled project is described in one (1) of the following
 20 categories:

21 (A) An elementary school building, middle school building, or
 22 other school building for academic instruction: ~~that:~~

23 (i) ~~that~~ will be used for any combination of kindergarten
 24 through grade 8;

25 (ii) ~~that~~ will not be used for any combination of grade 9
 26 through grade 12; and

27 (iii) ~~will whose cost more than to be financed will exceed~~
 28 ten million dollars (\$10,000,000).

29 (B) A high school building or other school building for
 30 academic instruction: ~~that:~~

31 (i) ~~that~~ will be used for any combination of grade 9 through
 32 grade 12;

33 (ii) ~~that~~ will not be used for any combination of
 34 kindergarten through grade 8; and

35 (iii) ~~will whose cost more than to be financed will exceed~~
 36 twenty million dollars (\$20,000,000).

37 (C) Any other controlled project **of a political subdivision:**
 38 ~~that:~~

39 (i) ~~that~~ is not a controlled project described in clause (A) or
 40 (B); and

41 (ii) ~~will whose cost the political subdivision more than to be~~
 42 **financed will exceed** the lesser of twelve million dollars

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1 (\$12,000,000) or an amount equal to one percent (1%) of the
2 total gross assessed value of property within the political
3 subdivision on the last assessment date (if that amount is at
4 least one million dollars (\$1,000,000)).

5 (2) The proper officers of the political subdivision make a
6 preliminary determination after June 30, 2008, in the manner
7 described in subsection (b) to issue bonds or enter into a lease for
8 the controlled project.

9 (b) A political subdivision may not impose property taxes to pay
10 debt service on bonds or lease rentals on a lease for a controlled project
11 without completing the following procedures:

12 (1) The proper officers of a political subdivision shall publish
13 notice in accordance with IC 5-3-1 and send notice by first class
14 mail to the circuit court clerk and to any organization that delivers
15 to the officers, before January 1 of that year, an annual written
16 request for notices of any meeting to consider the adoption of an
17 ordinance or a resolution making a preliminary determination to
18 issue bonds or enter into a lease and shall conduct a public
19 hearing on the preliminary determination before adoption of the
20 ordinance or resolution. The political subdivision must make the
21 following information available to the public at the public hearing
22 on the preliminary determination, in addition to any other
23 information required by law:

24 (A) The result of the political subdivision's current and
25 projected annual debt service payments divided by the net
26 assessed value of taxable property within the political
27 subdivision.

28 (B) The result of:

29 (i) the sum of the political subdivision's outstanding long
30 term debt plus the outstanding long term debt of other taxing
31 units that include any of the territory of the political
32 subdivision; divided by

33 (ii) the net assessed value of taxable property within the
34 political subdivision.

35 (C) The information specified in subdivision (3)(A) through
36 ~~(3)(G)~~: (3)(I).

37 **After June 30, 2012, the resolution or ordinance making a**
38 **preliminary determination to issue bonds or enter into a lease**
39 **must include a provision that specifies the amounts of the**
40 **political subdivision's cash the political subdivision is**
41 **reserving exclusively for expenditure on the controlled**
42 **project, if any.**

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- (2) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:
 - (A) publication in accordance with IC 5-3-1; and
 - (B) first class mail to the circuit court clerk and to the organizations described in subdivision (1).
- (3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:
 - (A) The maximum term of the bonds or lease.
 - (B) The maximum principal amount of the bonds or the maximum lease rental for the lease.
 - (C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
 - (D) For a preliminary determination to issue bonds or enter into a lease made after June 30, 2012, the amounts of the political subdivision's cash balances to be reserved exclusively for expenditure on the controlled project, if any.**
 - ~~(D)~~ (E) The purpose of the bonds or lease.
 - ~~(E)~~ (F) A statement that the proposed debt service or lease payments must be approved in an election on a local public question held under section 3.6 of this chapter.
 - ~~(F)~~ (G) With respect to bonds issued or a lease entered into to open:
 - (i) a new school facility; or
 - (ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;
 the estimated costs the school corporation expects to annually incur to operate the facility.
 - ~~(G)~~ (H) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.
 - ~~(H)~~ (I) The information specified in subdivision (1)(A) through (1)(B).
- (4) After notice is given, a petition requesting the application of the local public question process under section 3.6 of this chapter may be filed by the lesser of:
 - (A) one hundred (100) persons who are either owners of property within the political subdivision or registered voters

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1 residing within the political subdivision; or
2 (B) five percent (5%) of the registered voters residing within
3 the political subdivision.
4 (5) The state board of accounts shall design and, upon request by
5 the county voter registration office, deliver to the county voter
6 registration office or the county voter registration office's
7 designated printer the petition forms to be used solely in the
8 petition process described in this section. The county voter
9 registration office shall issue to an owner or owners of property
10 within the political subdivision or a registered voter residing
11 within the political subdivision the number of petition forms
12 requested by the owner or owners or the registered voter. Each
13 form must be accompanied by instructions detailing the
14 requirements that:
15 (A) the carrier and signers must be owners of property or
16 registered voters;
17 (B) the carrier must be a signatory on at least one (1) petition;
18 (C) after the signatures have been collected, the carrier must
19 swear or affirm before a notary public that the carrier
20 witnessed each signature; and
21 (D) govern the closing date for the petition period.
22 Persons requesting forms may be required to identify themselves
23 as owners of property or registered voters and may be allowed to
24 pick up additional copies to distribute to other owners of property
25 or registered voters. Each person signing a petition must indicate
26 whether the person is signing the petition as a registered voter
27 within the political subdivision or is signing the petition as the
28 owner of property within the political subdivision. A person who
29 signs a petition as a registered voter must indicate the address at
30 which the person is registered to vote. A person who signs a
31 petition as an owner of property must indicate the address of the
32 property owned by the person in the political subdivision.
33 (6) Each petition must be verified under oath by at least one (1)
34 qualified petitioner in a manner prescribed by the state board of
35 accounts before the petition is filed with the county voter
36 registration office under subdivision (7).
37 (7) Each petition must be filed with the county voter registration
38 office not more than thirty (30) days after publication under
39 subdivision (2) of the notice of the preliminary determination.
40 (8) The county voter registration office shall determine whether
41 each person who signed the petition is a registered voter.
42 However, after the county voter registration office has determined

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1 that at least one hundred twenty-five (125) persons who signed
 2 the petition are registered voters within the political subdivision,
 3 the county voter registration office is not required to verify
 4 whether the remaining persons who signed the petition are
 5 registered voters. If the county voter registration office does not
 6 determine that at least one hundred twenty-five (125) persons who
 7 signed the petition are registered voters, the county voter
 8 registration office, not more than fifteen (15) business days after
 9 receiving a petition, shall forward a copy of the petition to the
 10 county auditor. Not more than ten (10) business days after
 11 receiving the copy of the petition, the county auditor shall provide
 12 to the county voter registration office a statement verifying:

13 (A) whether a person who signed the petition as a registered
 14 voter but is not a registered voter, as determined by the county
 15 voter registration office, is the owner of property in the
 16 political subdivision; and

17 (B) whether a person who signed the petition as an owner of
 18 property within the political subdivision does in fact own
 19 property within the political subdivision.

20 (9) The county voter registration office, not more than ten (10)
 21 business days after determining that at least one hundred
 22 twenty-five (125) persons who signed the petition are registered
 23 voters or after receiving the statement from the county auditor
 24 under subdivision (8) (as applicable), shall make the final
 25 determination of whether a sufficient number of persons have
 26 signed the petition. Whenever the name of an individual who
 27 signs a petition form as a registered voter contains a minor
 28 variation from the name of the registered voter as set forth in the
 29 records of the county voter registration office, the signature is
 30 presumed to be valid, and there is a presumption that the
 31 individual is entitled to sign the petition under this section. Except
 32 as otherwise provided in this chapter, in determining whether an
 33 individual is a registered voter, the county voter registration office
 34 shall apply the requirements and procedures used under IC 3 to
 35 determine whether a person is a registered voter for purposes of
 36 voting in an election governed by IC 3. However, an individual is
 37 not required to comply with the provisions concerning providing
 38 proof of identification to be considered a registered voter for
 39 purposes of this chapter. A person is entitled to sign a petition
 40 only one (1) time in a particular referendum process under this
 41 chapter, regardless of whether the person owns more than one (1)
 42 parcel of real property, mobile home assessed as personal

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1 property, or manufactured home assessed as personal property or
2 a combination of those types of property within the political
3 subdivision and regardless of whether the person is both a
4 registered voter in the political subdivision and the owner of
5 property within the political subdivision. Notwithstanding any
6 other provision of this section, if a petition is presented to the
7 county voter registration office within forty-five (45) days before
8 an election, the county voter registration office may defer acting
9 on the petition, and the time requirements under this section for
10 action by the county voter registration office do not begin to run
11 until five (5) days after the date of the election.

12 (10) The county voter registration office must file a certificate and
13 each petition with:

14 (A) the township trustee, if the political subdivision is a
15 township, who shall present the petition or petitions to the
16 township board; or

17 (B) the body that has the authority to authorize the issuance of
18 the bonds or the execution of a lease, if the political
19 subdivision is not a township;

20 within thirty-five (35) business days of the filing of the petition
21 requesting the referendum process. The certificate must state the
22 number of petitioners who are owners of property within the
23 political subdivision and the number of petitioners who are
24 registered voters residing within the political subdivision.

25 (11) If a sufficient petition requesting the local public question
26 process is not filed by owners of property or registered voters as
27 set forth in this section, the political subdivision may issue bonds
28 or enter into a lease by following the provisions of law relating to
29 the bonds to be issued or lease to be entered into.

30 (c) If the proper officers of a political subdivision make a
31 preliminary determination to issue bonds or enter into a lease, the
32 officers shall provide to the county auditor:

- 33 (1) a copy of the notice required by subsection (b)(2); and
- 34 (2) any other information the county auditor requires to fulfill the
35 county auditor's duties under section 3.6 of this chapter.

36 SECTION 5. IC 6-1.1-20-3.6, AS AMENDED BY P.L.198-2011,
37 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2012]: Sec. 3.6. (a) Except as provided in sections 3.7 and 3.8
39 of this chapter, this section applies only to a controlled project
40 described in section 3.5(a) of this chapter.

41 (b) If a sufficient petition requesting the application of the local
42 public question process has been filed as set forth in section 3.5 of this

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1 chapter, a political subdivision may not impose property taxes to pay
2 debt service on bonds or lease rentals on a lease for a controlled project
3 unless the political subdivision's proposed debt service or lease rental
4 is approved in an election on a local public question held under this
5 section.

6 (c) Except as provided in subsection (l), the following question shall
7 be submitted to the eligible voters at the election conducted under this
8 section:

9 "Shall _____ (insert the name of the political subdivision)
10 issue bonds or enter into a lease to finance _____ (insert
11 a brief description of the controlled project), ~~which is whose~~
12 estimated ~~to cost to be financed is~~ not more than _____ (insert
13 the total cost **to be financed** of the project) and is estimated to
14 increase the property tax rate for debt service by _____
15 (insert increase in tax rate as determined by the department of
16 local government finance)?".

17 The public question must appear on the ballot in the form approved by
18 the county election board. If the political subdivision proposing to issue
19 bonds or enter into a lease is located in more than one (1) county, the
20 county election board of each county shall jointly approve the form of
21 the public question that will appear on the ballot in each county. The
22 form approved by the county election board may differ from the
23 language certified to the county election board by the county auditor.
24 If the county election board approves the language of a public question
25 under this subsection, the county election board shall submit the
26 language to the department of local government finance for review.

27 (d) This subsection applies to ballot language submitted by the
28 county election board under subsection (c) before May 1, 2011. The
29 department of local government finance shall review the language of
30 the public question to evaluate whether the description of the
31 controlled project is accurate and is not biased against either a vote in
32 favor of the controlled project or a vote against the controlled project.
33 The department of local government finance may recommend that the
34 ballot language be used as submitted or recommend modifications to
35 the ballot language as necessary to ensure that the description of the
36 controlled project is accurate and is not biased. The department of local
37 government finance shall send its recommendations to the county
38 election board not more than ten (10) days after the language of the
39 public question is submitted to the department for review. After
40 reviewing the recommendations of the department of local government
41 finance under this subsection, the county election board shall take final
42 action to approve ballot language. The finally adopted ballot language

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1 may differ from the recommendations made by the department of local
2 government finance.

3 (e) This subsection applies to ballot language submitted by the
4 county election board under subsection (c) after April 30, 2011. The
5 department of local government finance shall review the language of
6 the public question to evaluate whether the description of the
7 controlled project is accurate and is not biased against either a vote in
8 favor of the controlled project or a vote against the controlled project.
9 The department of local government finance may either approve the
10 ballot language as submitted or recommend that the ballot language be
11 modified as necessary to ensure that the description of the controlled
12 project is accurate and is not biased. The department of local
13 government finance shall certify its approval or recommendations to
14 the county auditor and the county election board not more than ten (10)
15 days after the language of the public question is submitted to the
16 department for review. If the department of local government finance
17 recommends a modification to the ballot language, the county election
18 board shall, after reviewing the recommendations of the department of
19 local government finance, submit modified ballot language to the
20 department for the department's approval or recommendation of any
21 additional modifications. The public question may not be certified by
22 the county auditor under subsection (f) unless the department of local
23 government finance has first certified the department's final approval
24 of the ballot language for the public question.

25 (f) The county auditor shall certify the finally approved public
26 question under IC 3-10-9-3 to the county election board of each county
27 in which the political subdivision is located. The certification must
28 occur not later than noon:

29 (1) sixty (60) days before a primary election if the public question
30 is to be placed on the primary or municipal primary election
31 ballot; or

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

34 Subject to the certification requirements and deadlines under this
35 subsection and except as provided in subsection (1), the public question
36 shall be placed on the ballot at the next primary election, general
37 election, or municipal election in which all voters of the political
38 subdivision are entitled to vote. However, if a primary election, general
39 election, or municipal election will not be held during the first year in
40 which the public question is eligible to be placed on the ballot under
41 this section and if the political subdivision requests the public question
42 to be placed on the ballot at a special election, the public question shall

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1 be placed on the ballot at a special election to be held on the first
 2 Tuesday after the first Monday in May or November of the year. The
 3 certification must occur not later than noon sixty (60) days before a
 4 special election to be held in May (if the special election is to be held
 5 in May) or noon on August 1 (if the special election is to be held in
 6 November). However, in 2009, a political subdivision may hold a
 7 special election under this section on any date scheduled for the special
 8 election if notice of the special election was given before July 1, 2009,
 9 to the election division of the secretary of state's office as provided in
 10 IC 3-10-8-4. The fiscal body of the political subdivision that requests
 11 the special election shall pay the costs of holding the special election.
 12 The county election board shall give notice under IC 5-3-1 of a special
 13 election conducted under this subsection. A special election conducted
 14 under this subsection is under the direction of the county election
 15 board. The county election board shall take all steps necessary to carry
 16 out the special election.

17 (g) The circuit court clerk shall certify the results of the public
 18 question to the following:

19 (1) The county auditor of each county in which the political
 20 subdivision is located.

21 (2) The department of local government finance.

22 (h) Subject to the requirements of IC 6-1.1-18.5-8, the political
 23 subdivision may issue the proposed bonds or enter into the proposed
 24 lease rental if a majority of the eligible voters voting on the public
 25 question vote in favor of the public question.

26 (i) If a majority of the eligible voters voting on the public question
 27 vote in opposition to the public question, both of the following apply:

28 (1) The political subdivision may not issue the proposed bonds or
 29 enter into the proposed lease rental.

30 (2) Another public question under this section on the same or a
 31 substantially similar project may not be submitted to the voters
 32 earlier than one (1) year after the date of the election.

33 (j) IC 3, to the extent not inconsistent with this section, applies to an
 34 election held under this section.

35 (k) A political subdivision may not artificially divide a capital
 36 project into multiple capital projects in order to avoid the requirements
 37 of this section and section 3.5 of this chapter.

38 (l) This subsection applies to a political subdivision for which a
 39 petition requesting a public question has been submitted under section
 40 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of
 41 the political subdivision may adopt a resolution to withdraw a
 42 controlled project from consideration in a public question. If the

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1 legislative body provides a certified copy of the resolution to the county
 2 auditor and the county election board not later than forty-nine (49) days
 3 before the election at which the public question would be on the ballot,
 4 the public question on the controlled project shall not be placed on the
 5 ballot and the public question on the controlled project shall not be
 6 held, regardless of whether the county auditor has certified the public
 7 question to the county election board. If the withdrawal of a public
 8 question under this subsection requires the county election board to
 9 reprint ballots, the political subdivision withdrawing the public
 10 question shall pay the costs of reprinting the ballots. If a political
 11 subdivision withdraws a public question under this subsection that
 12 would have been held at a special election and the county election
 13 board has printed the ballots before the legislative body of the political
 14 subdivision provides a certified copy of the withdrawal resolution to
 15 the county auditor and the county election board, the political
 16 subdivision withdrawing the public question shall pay the costs
 17 incurred by the county in printing the ballots. If a public question on a
 18 controlled project is withdrawn under this subsection, a public question
 19 under this section on the same controlled project or a substantially
 20 similar controlled project may not be submitted to the voters earlier
 21 than one (1) year after the date the resolution withdrawing the public
 22 question is adopted.

23 (m) If a public question regarding a controlled project is placed on
 24 the ballot to be voted on at a public question under this section, the
 25 political subdivision shall submit to the department of local
 26 government finance, at least thirty (30) days before the election, the
 27 following information regarding the proposed controlled project for
 28 posting on the department's Internet web site:

29 (1) The cost per square foot of any buildings being constructed as
 30 part of the controlled project.

31 (2) The effect that approval of the controlled project would have
 32 on the political subdivision's property tax rate.

33 (3) The maximum term of the bonds or lease.

34 (4) The maximum principal amount of the bonds or the maximum
 35 lease rental for the lease.

36 (5) The estimated interest rates that will be paid and the total
 37 interest costs associated with the bonds or lease.

38 **(6) For a preliminary determination to issue bonds or enter**
 39 **into a lease made after June 30, 2012, the amounts of the**
 40 **political subdivision's cash balances reserved exclusively for**
 41 **expenditure on the controlled project, if any.**

42 ~~(6)~~ (7) The purpose of the bonds or lease.

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- 1 (7) **(8)** In the case of a controlled project proposed by a school
- 2 corporation:
- 3 (A) the current and proposed square footage of school building
- 4 space per student;
- 5 (B) enrollment patterns within the school corporation; and
- 6 (C) the age and condition of the current school facilities.
- 7 SECTION 6. IC 6-1.1-20-13 IS ADDED TO THE INDIANA CODE
- 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 9 1, 2012]: **Sec. 13. (a) A political subdivision may reserve all or part**
- 10 **of the cash available to the subdivision exclusively for expenditure**
- 11 **on a controlled project in a resolution or ordinance making a**
- 12 **preliminary determination to issue bonds or enter into a lease**
- 13 **under this chapter only if:**
- 14 (1) the amount reserved does not exceed the cash available to
- 15 the political subdivision at the time the money is reserved;
- 16 (2) none of the amount reserved has been designated for
- 17 another purpose; and
- 18 (3) the expenditure of the amount reserved for the controlled
- 19 project is otherwise authorized by law.
- 20 **(b) If a political subdivision:**
- 21 (1) is authorized to issue bonds or enter into a lease for a
- 22 controlled project under this chapter;
- 23 (2) had reserved cash of the political subdivision exclusively
- 24 for expenditure on the controlled project in a resolution or
- 25 ordinance adopted under this chapter making a preliminary
- 26 determination to issue bonds or enter into a lease for the
- 27 controlled project;
- 28 (3) the political subdivision proceeds with the controlled
- 29 project and its financing after complying with the applicable
- 30 provisions of this chapter; and
- 31 (4) does not spend the cash reserved in the preliminary
- 32 determination on the controlled project;
- 33 the part of the political subdivision's levy for the controlled project
- 34 is void.
- 35 **(c) If a political subdivision:**
- 36 (1) has reserved cash for expenditure on controlled project in
- 37 a preliminary determination to issue bonds or enter into a
- 38 lease; and
- 39 (2) the political subdivision:
- 40 (A) is not authorized to proceed with the controlled project
- 41 because the result of the petition and remonstrance process
- 42 or the referendum process is negative; or

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1 **(B) withdraws its intention to proceed with the controlled**
2 **project;**
3 **the cash reserved for the controlled project in the preliminary**
4 **determination to issue bonds or enter into a lease is released for**
5 **other lawful uses by the political subdivision.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1132, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 9, begin a new a paragraph and insert:

"SECTION 1. IC 6-1.1-20-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 0.5. As used in this chapter, "cost to be financed" means the following:**

(1) For a preliminary determination to issue bonds or enter into a lease made before July 1, 2012, the cost of a project.

(2) For a preliminary determination to issue bonds or enter into a lease made after June 30, 2012,

(A) the cost of a project; minus

(B) the sum of:

(i) the cash available to a political subdivision that was reserved exclusively for expenditure on the project's costs in a resolution or ordinance adopted by the proper officers of the political subdivision;

(ii) money received in the form of a donation or a grant for expenditure on the project's costs from an entity not controlled by the political subdivision; and

(iii) money for a project attributable to a grant commitment or similar instrument from an agency or affiliate of the federal government that reimburses the political subdivision for the political subdivision's expenditures on the project."

Page 4, line 2, delete "The" and insert "After June 30, 2012, the"

Page 4, line 5, delete "balances".

Page 4, line 24, delete "The" and insert "**For a preliminary determination to issue bonds or enter into a lease made after June 30, 2012, the**".

Page 4, line 25, delete "balances".

Page 9, line 23, delete "The" and insert "**After June 30, 2012, the**".

Page 9, line 26, delete "balances".

Page 10, line 1, delete "The" and insert "**For a preliminary determination to issue bonds or enter into a lease made after June 30, 2012, the**".

Page 17, line 22, delete "The" and insert "**For a preliminary determination to issue bonds or enter into a lease made after June 30, 2012, the**".

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Page 17, between lines 31 and 32, begin a new paragraph and insert:
 "SECTION 6. IC 6-1.1-20-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 13. (a) A political subdivision may reserve all or part of the cash available to the subdivision exclusively for expenditure on a controlled project in a resolution or ordinance making a preliminary determination to issue bonds or enter into a lease under this chapter only if:**

- (1) the amount reserved does not exceed the cash available to the political subdivision at the time the money is reserved;**
- (2) none of the amount reserved has been designated for another purpose; and**
- (3) the expenditure of the amount reserved for the controlled project is otherwise authorized by law.**

(b) If a political subdivision:

- (1) is authorized to issue bonds or enter into a lease for a controlled project under this chapter;**
- (2) had reserved cash of the political subdivision exclusively for expenditure on the controlled project in a resolution or ordinance adopted under this chapter making a preliminary determination to issue bonds or enter into a lease for the controlled project;**
- (3) the political subdivision proceeds with the controlled project and its financing after complying with the applicable provisions of this chapter; and**
- (4) does not spend the cash reserved in the preliminary determination on the controlled project;**

the part of the political subdivision's levy for the controlled project is void.

(c) If a political subdivision:

- (1) has reserved cash for expenditure on controlled project in a preliminary determination to issue bonds or enter into a lease; and**
- (2) the political subdivision:**
 - (A) is not authorized to proceed with the controlled project because the result of the petition and remonstrance process or the referendum process is negative; or**
 - (B) withdraws its intention to proceed with the controlled project;**

the cash reserved for the controlled project in the preliminary determination to issue bonds or enter into a lease is released for other lawful uses by the political subdivision."

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Page 17, delete lines 32 through 42.

Delete page 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1132 as introduced.)

ESPICH, Chair

Committee Vote: yeas 16, nays 0.

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