Reprinted
January 28, 2012

HOUSE BILL No. 1132

DIGEST OF HB 1132 (Updated January 27, 2012 1:45 pm - DI 44)

Citations Affected: IC 6-1.1; IC 20-46.

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. Changes the waiting period required for subsequent referenda for controlled projects and for a school's referendum fund to provide that if the first referendum was held on a May or November election date, a subsequent referendum may be held at the next comparable (May or November) election date even though it may be a few days less than one full year later. Retains the one year rule if a special election is used. 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.
January 27, 2012, read second time, amended, ordered engrossed.

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Reprinted
January 28, 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:

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.

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

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

(A) debt service; or

(B) lease rentals;

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

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

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

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

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

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

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

(6) A project that:

(A) is in response to:

(i) a natural disaster;

(ii) an accident; or

(iii) an emergency;

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

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(B) is approved by the county council of each county in which the political subdivision is located.

(7) A project that was not a controlled project under this section as in effect on June 30, 2008, and for which:

(A) the bonds or lease for the project were issued or entered into before July 1, 2008; or

(B) the issuance of the bonds or the execution of the lease for the project was approved by the department of local government finance before July 1, 2008.

SECTION 3. IC 6-1.1-20-3.1, AS AMENDED BY P.L.198-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.1. (a) This section applies only to the following:

(1) A controlled project (as defined in section 1.1 of this chapter as in effect June 30, 2008) for which the proper officers of a political subdivision make a preliminary determination in the manner described in subsection (b) before July 1, 2008.

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

(A) **that** is a controlled project;

(B) **that** will be used for any combination of kindergarten through grade 8;

(C) **that** will not be used for any combination of grade 9 through grade 12; and

(D) ~~will not~~ **whose** cost **to be financed** ~~more than~~ **will not exceed** ten million dollars ($10,000,000).

(3) A high school building or other school building for academic instruction: ~~that:~~

(A) **that** is a controlled project;

(B) **that** will be used for any combination of grade 9 through grade 12;

(C) **that** will not be used for any combination of kindergarten through grade 8; and

(D) ~~will not~~ **whose** cost **to be financed** ~~more than~~ **will not exceed** twenty million dollars ($20,000,000).

(4) Any other controlled project **of a political subdivision:** ~~that:~~

(A) **that** is not a controlled project described in subdivision (1), (2), or (3); and

(B) ~~will not~~ **whose** cost ~~the political subdivision more than~~ **to be financed will not exceed** the lesser of the following:

(i) Twelve million dollars ($12,000,000).

(ii) An amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision

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on the last assessment date, if that amount is at least one million dollars ($1,000,000).

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

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

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

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

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance. **After June 30, 2012, the resolution or ordinance making a preliminary determination to issue bonds or enter into a lease must include a provision that specifies the amounts of the political subdivision's cash the political subdivision is reserving exclusively for expenditure on the controlled project, if any.**

(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease for a controlled project, 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)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease for a controlled project 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 reserved exclusively for expenditure on the controlled project, if any.

~~(D)~~ **(E)** The purpose of the bonds or lease.

~~(E)~~ **(F)** A statement that any owners of property within the

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

~~(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 incur annually to operate the facility.

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

~~(H)~~ **(I)** 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.

(4) After notice is given, a petition requesting the application of a petition and remonstrance process 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 residing within the political subdivision; or

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

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

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

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registered voters;

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

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

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

Persons requesting forms may be required to identify themselves as owners of property or registered voters and may be allowed to pick up additional copies to distribute to other owners of property or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as an owner of property must indicate the address of the property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. The county voter registration office shall, not more than fifteen (15) business days after receiving a petition, forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

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

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

(9) The county voter registration office shall, not more than ten (10) business days after receiving the statement from the county auditor under subdivision (8), make the final determination of the

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

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

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

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

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

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within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) The result of:

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

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

(C) The information specified in subdivision (3)(A) through ~~(3)(G).~~ **(3)(I).**

After June 30, 2012, the resolution or ordinance making a preliminary determination to issue bonds or enter into a lease must include a provision that specifies the amounts of the political subdivision's cash the political subdivision is reserving exclusively for expenditure on the controlled 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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residing within the political subdivision; or

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

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

(A) the carrier and signers must be owners of property or registered voters;

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

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

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

Persons requesting forms may be required to identify themselves as owners of property or registered voters and may be allowed to pick up additional copies to distribute to other owners of property or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as an owner of property must indicate the address of the property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. However, after the county voter registration office has determined

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

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

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

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

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

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

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

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

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

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

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

(1) a copy of the notice required by subsection (b)(2); and

(2) any other information the county auditor requires to fulfill the county auditor's duties under section 3.6 of this chapter.

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

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

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

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

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

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

(d) This subsection applies to ballot language submitted by the county election board under subsection (c) before May 1, 2011. The department of local government finance shall review the language of the public question to 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. The department of local government finance 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 of local government finance shall send its recommendations to the county election board not more than ten (10) days after the language of the public question is submitted to the department for review. After reviewing the recommendations of the department of local government finance under this subsection, the county election board shall take final action to approve ballot language. The finally adopted ballot language

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

(e) This subsection applies to ballot language submitted by the county election board under subsection (c) after April 30, 2011. The department of local government finance shall review the language of the public question to 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. The department of local government finance may either approve the ballot language as submitted or recommend that the ballot language be modified as necessary to ensure that the description of the controlled project is accurate and is not biased. The department of local government finance shall certify its approval or recommendations to the county auditor and the county election board not more than ten (10) days after the language of the public question is submitted to the department for review. If the department of local government finance recommends a modification to the ballot language, the county election board shall, after reviewing the recommendations of the department of local government finance, submit modified ballot language to the department for the department's approval or recommendation of any additional modifications. The public question may not be certified by the county auditor under subsection (f) unless the department of local government finance has first certified the department's final approval of the ballot language for the public question.

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

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

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

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

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

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

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

(2) The department of local government finance.

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

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

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

(2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters earlier than:

(A) the comparable election date in May or November in the immediately following year whenever the vote on the previous public question was held on a May or November election date; or

(B) one (1) year after the date of the election **whenever the vote on the previous public question was held at a special election.**

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

(k) A political subdivision may not artificially divide a capital

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project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter.

(l) This subsection applies to a political subdivision for which a petition requesting a public question has been submitted under section 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of the political subdivision may adopt a resolution to withdraw a controlled project from consideration in a public question. If the legislative body provides a certified copy of the resolution to the county auditor and the county election board not later than forty-nine (49) days before the election at which the public question would be on the ballot, the public question on the controlled project shall not be placed on the ballot and the public question on the controlled project shall not be held, regardless of whether the county auditor has certified the public question to the county election board. If the withdrawal of a public question under this subsection requires the county election board to reprint ballots, the political subdivision withdrawing the public question shall pay the costs of reprinting the ballots. If a political subdivision withdraws a public question under this subsection that would have been held at a special election and the county election board has printed the ballots before the legislative body of the political subdivision provides a certified copy of the withdrawal resolution to the county auditor and the county election board, the political subdivision withdrawing the public question shall pay the costs incurred by the county in printing the ballots. If a public question on a controlled project is withdrawn under this subsection, a public question under this section on the same controlled project or a substantially similar controlled project may not be submitted to the voters earlier than one (1) year after the date the resolution withdrawing the public question is adopted.

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

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

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

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

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

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

(6) 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 reserved exclusively for expenditure on the controlled project, if any.

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

~~(7)~~ **(8)** In the case of a controlled project proposed by a school corporation:

(A) the current and proposed square footage of school building space per student;

(B) enrollment patterns within the school corporation; and

(C) the age and condition of the current school facilities.

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 subdivison 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:

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(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.

SECTION 7. IC 20-46-1-19, AS AMENDED BY P.L.146-2008, SECTION 503, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question:

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

(2) another referendum under this section may not be held ~~for~~ **earlier than:**

(A) the comparable election date in May or November in the immediately following year whenever the previous referendum was held on a May or November election date; or

(B) one (1) year after the date of the referendum **whenever the previous referendum was held at a special election.**

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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 subdivison 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.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1132 be amended to read as follows:

Page 16, line 32, after "than" insert ":

(A) the comparable election date in May or November in the immediately following year whenever the vote on the previous public question was held on a May or November election date; or

(B)".

Page 16, line 32, delete "." and insert "**whenever the vote on the previous public question was held at a special election.**".

Page 19, after line 5, begin a new paragraph and insert:

"SECTION 7. IC 20-46-1-19, AS AMENDED BY P.L.146-2008, SECTION 503, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. If a majority of the persons who voted in the referendum did not vote "yes" on the referendum question:

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

(2) another referendum under this section may not be held ~~for~~ **earlier than:**

(A) the comparable election date in May or November in the immediately following year whenever the previous referendum was held on a May or November election date; or

(B) one (1) year after the date of the referendum **whenever the previous referendum was held at a special election.**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1132 as printed January 25, 2012.)

MESSMER

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