
HOUSE BILL No. 1306

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20; IC 20-46-1.

Synopsis: Participation of property owner in tax referendum. Provides that a property owner (an owner of real property, a mobile home assessed as personal property, or a manufactured home assessed as personal property) of property located in a political subdivision may vote in a referendum on whether the political subdivision may issue debt for certain capital projects or whether a school may impose a school referendum property tax levy. (Current law allows a property owner to sign a petition to initiate a petition remonstrance or referendum process or to sign a petition or remonstrance regarding a controlled project.) Specifies conditions that a property owner must satisfy in order to vote. Provides that only one vote is permitted for each property owner regardless of the character of the ownership interest, the number of parcels that comprise the property, or the number of properties that a particular property owner owns within the political subdivision. Requires the secretary of state to establish a sealed paper ballot system for a property owner to vote. Requires the state board of accounts, the county voter registration office, the county auditor, and the circuit court clerk to carry out various duties as part of the referendum process.

Effective: July 1, 2012.

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January 11, 2012, read first time and referred to Committee on Local Government.

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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. 1306



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

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

1 SECTION 1. IC 6-1.1-20-3.6, AS AMENDED BY P.L.198-2011,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 3.6. (a) Except as provided in sections 3.7 and 3.8
4 of this chapter, this section applies only to a controlled project
5 described in section 3.5(a) of this chapter.
6 (b) If a sufficient petition requesting the application of the local
7 public question process has been filed as set forth in section 3.5 of this
8 chapter, a political subdivision may not impose property taxes to pay
9 debt service on bonds or lease rentals on a lease for a controlled project
10 unless the political subdivision's proposed debt service or lease rental
11 is approved in an election on a local public question held under this
12 section.
13 (c) Except as provided in subsection (l), the following question shall
14 be submitted to the eligible voters at the election conducted under this
15 section:
16 "Shall _____ (insert the name of the political subdivision)
17 issue bonds or enter into a lease to finance _____ (insert



1 a brief description of the controlled project), which is estimated
 2 to cost not more than _____ (insert the total cost of the project)
 3 and is estimated to increase the property tax rate for debt service
 4 by _____ (insert increase in tax rate as determined by the
 5 department of local government finance)?".

6 The public question must appear on the ballot, **including the ballot**
 7 **used under section 13 of this chapter**, in the form approved by the
 8 county election board. If the political subdivision proposing to issue
 9 bonds or enter into a lease is located in more than one (1) county, the
 10 county election board of each county shall jointly approve the form of
 11 the public question that will appear on the ballot in each county. The
 12 form approved by the county election board may differ from the
 13 language certified to the county election board by the county auditor.
 14 If the county election board approves the language of a public question
 15 under this subsection, the county election board shall submit the
 16 language to the department of local government finance for review.

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

35 (e) This subsection applies to ballot language submitted by the
 36 county election board under subsection (c) after April 30, 2011. The
 37 department of local government finance shall review the language of
 38 the public question to evaluate whether the description of the
 39 controlled project is accurate and is not biased against either a vote in
 40 favor of the controlled project or a vote against the controlled project.
 41 The department of local government finance may either approve the
 42 ballot language as submitted or recommend that the ballot language be

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1 modified as necessary to ensure that the description of the controlled
 2 project is accurate and is not biased. The department of local
 3 government finance shall certify its approval or recommendations to
 4 the county auditor and the county election board not more than ten (10)
 5 days after the language of the public question is submitted to the
 6 department for review. If the department of local government finance
 7 recommends a modification to the ballot language, the county election
 8 board shall, after reviewing the recommendations of the department of
 9 local government finance, submit modified ballot language to the
 10 department for the department's approval or recommendation of any
 11 additional modifications. The public question may not be certified by
 12 the county auditor under subsection (f) unless the department of local
 13 government finance has first certified the department's final approval
 14 of the ballot language for the public question.

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

- 19 (1) sixty (60) days before a primary election if the public question
 20 is to be placed on the primary or municipal primary election
 21 ballot; or
 22 (2) August 1 if the public question is to be placed on the general
 23 or municipal election ballot.

24 Subject to the certification requirements and deadlines under this
 25 subsection and except as provided in subsection (l), the public question
 26 shall be placed on the ballot at the next primary election, general
 27 election, or municipal election in which all voters of the political
 28 subdivision are entitled to vote. However, if a primary election, general
 29 election, or municipal election will not be held during the first year in
 30 which the public question is eligible to be placed on the ballot under
 31 this section and if the political subdivision requests the public question
 32 to be placed on the ballot at a special election, the public question shall
 33 be placed on the ballot at a special election to be held on the first
 34 Tuesday after the first Monday in May or November of the year. The
 35 certification must occur not later than noon sixty (60) days before a
 36 special election to be held in May (if the special election is to be held
 37 in May) or noon on August 1 (if the special election is to be held in
 38 November). ~~However, in 2009, a political subdivision may hold a~~
 39 ~~special election under this section on any date scheduled for the special~~
 40 ~~election if notice of the special election was given before July 1, 2009,~~
 41 ~~to the election division of the secretary of state's office as provided in~~
 42 ~~IC 3-10-8-4.~~ The fiscal body of the political subdivision that requests

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1 the special election shall pay the costs of holding the special election.
 2 The county election board shall give notice under IC 5-3-1 of a special
 3 election conducted under this subsection. A special election conducted
 4 under this subsection is under the direction of the county election
 5 board. The county election board shall take all steps necessary to carry
 6 out the special election. **In addition, the county election board shall**
 7 **take all the steps necessary to provide for voting by property**
 8 **owners within the political subdivision as provided by section 13 of**
 9 **this chapter.**

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

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

14 (2) The department of local government finance.

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

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

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

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

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

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

31 (l) This subsection applies to a political subdivision for which a
 32 petition requesting a public question has been submitted under section
 33 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of
 34 the political subdivision may adopt a resolution to withdraw a
 35 controlled project from consideration in a public question. If the
 36 legislative body provides a certified copy of the resolution to the county
 37 auditor and the county election board not later than forty-nine (49) days
 38 before the election at which the public question would be on the ballot,
 39 the public question on the controlled project shall not be placed on the
 40 ballot and the public question on the controlled project shall not be
 41 held, regardless of whether the county auditor has certified the public
 42 question to the county election board. If the withdrawal of a public

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

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

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

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

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

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

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

31 (6) The purpose of the bonds or lease.

32 (7) In the case of a controlled project proposed by a school
 33 corporation:

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

36 (B) enrollment patterns within the school corporation; and

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

38 SECTION 2. IC 6-1.1-20-13 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2012]: **Sec. 13. (a) As used in this section, "property owner"**
 41 **means an owner of real property, a mobile home assessed as**
 42 **personal property, or a manufactured home assessed as personal**

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1 property that is located in the political subdivision.

2 (b) The secretary of state shall adopt rules under IC 4-22-2 to
3 establish a procedure for a property owner:

4 (1) to vote, in the case of property owned by an individual; or

5 (2) in the case of property not owned by an individual, to
6 designate a resident agent or registered agent who is an
7 individual registered to vote in Indiana to vote;

8 on a public question under section 3.6 of this chapter.

9 (c) For purposes of determining a property owner's right to vote
10 under this section, the following apply:

11 (1) Only one (1) vote is permitted for each property owner
12 regardless of:

13 (A) the character of the ownership interest;

14 (B) the number of parcels that comprise the property; or

15 (C) the number of properties that a particular property
16 owner owns within the political subdivision.

17 (2) The individual entitled to vote for a property owner is:

18 (A) the owner, if the owner is an individual; or

19 (B) a designated resident agent or registered agent who
20 must be an individual registered to vote in Indiana, if the
21 property owner is not an individual.

22 (3) An individual who is registered to vote in the political
23 subdivision is not entitled to a second vote as a property
24 owner for property the individual owns in the political
25 subdivision as an individual.

26 (4) The state board of accounts shall design and, upon request
27 by the county voter registration office, deliver to the county
28 voter registration office the ballot form to be used under this
29 section. The ballot form must provide for sealing and include
30 a space for the county auditor to verify that the person is a
31 property owner. Each ballot form must be verified under oath
32 by the individual completing the ballot in a manner
33 prescribed by the state board of accounts before the ballot is
34 filed with the county voter registration office under this
35 section. Each ballot form must be accompanied by
36 instructions detailing the requirements of this section.

37 (5) The county voter registration office shall make a ballot
38 form available to each person desiring to vote as a property
39 owner.

40 (6) To validate a ballot to vote on the public question, a
41 property owner must present the ballot form to the county
42 auditor for verification of whether:

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- (A) the person is a property owner; and
- (B) a ballot is filed for a different property within the political subdivision that is also owned by the same property owner.

If the county auditor finds that the property owner satisfies clauses (A) and (B), the county auditor shall indicate these verifications on the ballot form.

(7) A property owner must deliver a sealed, validated ballot to the county voter registration office before the deadline applicable to absentee ballots. Ballots delivered to the voter registration office shall be opened by the county voter registration office. The county voter registration office shall, not more than fifteen (15) business days after the date of the election, forward a copy of the ballot to the county auditor. Not more than ten (10) business days after receiving the copy of the ballot, the county auditor shall provide to the county voter registration office a statement verifying whether the ballot was properly validated with the county auditor before being delivered to the county voter registration office. The county voter registration office shall forward all verified ballots to the circuit court clerk.

(8) The circuit court clerk shall determine whether a ballot complies with this section, including whether a property owner has voted only one (1) time on the public question.

(9) The circuit court clerk shall include all ballots that comply with this section in the vote count on the public question placed before the voters under section 3.6 of this chapter.

SECTION 3. IC 20-46-1-14, AS AMENDED BY P.L.113-2010, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 14. (a) The referendum shall be held in the next primary election, general election, or municipal election in which all the registered voters who are residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. **In addition, the county election board shall take all steps necessary to provide for voting by a property owner within the appellant school corporation under the same requirements that apply to a public question under IC 6-1.1-20-13.** The certification of the question must occur not later than noon:

- (1) sixty (60) days before a primary election if the question is to be placed on the primary or municipal primary election ballot; or
- (2) August 1 if the question is to be placed on the general or municipal election ballot.

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1 However, if a primary election, general election, or municipal election
 2 will not be held during the first year in which the public question is
 3 eligible to be placed on the ballot under this chapter and if the
 4 appellant school corporation requests the public question to be placed
 5 on the ballot at a special election, the public question shall be placed
 6 on the ballot at a special election to be held on the first Tuesday after
 7 the first Monday in May or November of the year. The certification
 8 must occur not later than noon sixty (60) days before a special election
 9 to be held in May (if the special election is to be held in May) or noon
 10 on August 1 (if the special election is to be held in November).

11 (b) If the referendum is not conducted at a primary election, general
 12 election, or municipal election, the appellant school corporation in
 13 which the referendum is to be held shall pay all the costs of holding the
 14 referendum.

15 SECTION 4. IC 20-46-1-16, AS ADDED BY P.L.2-2006,
 16 SECTION 169, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2012]: Sec. 16. The individuals entitled to vote
 18 in the referendum are:

- 19 (1) all of the registered voters resident in the appellant school
- 20 corporation; **and**
- 21 (2) **property owners that are entitled to vote on a local public**
- 22 **question under IC 6-1.1-20.**

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