
HOUSE BILL No. 1362

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20.

Synopsis: Controlled project referenda. Permits a political subdivision, for purposes of holding a local public question regarding the issuance of debt for a project, to hold a special election if there is not a primary, municipal, or general election scheduled during the year the question is first eligible to be placed on the ballot. Removes the requirement that the local public question include the total cost of the project. Requires that the local public question must include the total amount that will be borrowed for the project. Requires that the local public question must include the debt service property tax rate impact. Permits a political subdivision to adopt, at the same hearing at which the preliminary determination is made to issue bonds or enter into a lease, a resolution specifying that the local public question process applies to the issuance of the bonds or the entering into of the lease. Makes a technical correction.

Effective: July 1, 2013.

Huston

January 22, 2013, read first time and referred to Committee on Ways and Means.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1362



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

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

1 SECTION 1. IC 6-1.1-20-3.6, AS AMENDED BY P.L.198-2011,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: 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 **for which _____ (insert the total amount to be borrowed**
 4 **for the project) will be borrowed for the project, which will**
 5 **result in an estimated debt service property tax rate impact of**
 6 **_____ (insert debt service property tax rate impact as**
 7 **determined by the department of local government finance),**
 8 and is estimated to increase the property tax rate for debt service
 9 **over the immediately preceding year by _____ (insert**
 10 **increase in tax rate as determined by the department of local**
 11 **government finance)?".**

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

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

40 (e) This subsection applies to ballot language submitted by the
 41 county election board under subsection (c) after April 30, 2011. The
 42 department of local government finance shall review the language of

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

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

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

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

29 Subject to the certification requirements and deadlines under this
 30 subsection and except as provided in subsection (1), the public question
 31 shall be placed on the ballot at the next primary election, general
 32 election, or municipal election in which all voters of the political
 33 subdivision are entitled to vote. However, if a primary election, general
 34 election, or municipal election will not be held during the first year in
 35 which the public question is eligible to be placed on the ballot under
 36 this section and if the political subdivision requests the public question
 37 to be placed on the ballot at a special election, the public question shall
 38 be placed on the ballot at a special election to be held on the first
 39 Tuesday after the first Monday in May or November of the year. The
 40 certification must occur not later than noon sixty (60) days before a
 41 special election to be held in May (if the special election is to be held
 42 in May) or noon on August 1 (if the special election is to be held in

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1 November). However, in 2009, a political subdivision may hold a
 2 special election under this section on any date scheduled for the special
 3 election if notice of the special election was given before July 1, 2009,
 4 to the election division of the secretary of state's office as provided in
 5 IC 3-10-8-4. The fiscal body of the political subdivision that requests
 6 the special election shall pay the costs of holding the special election.
 7 The county election board shall give notice under IC 5-3-1 of a special
 8 election conducted under this subsection. A special election conducted
 9 under this subsection is under the direction of the county election
 10 board. The county election board shall take all steps necessary to carry
 11 out the special election.

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

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

16 (2) The department of local government finance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (7) In the case of a controlled project proposed by a school
 35 corporation:

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

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

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

40 SECTION 2. IC 6-1.1-20-3.7, AS ADDED BY P.L.182-2009(ss),
 41 SECTION 147, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2013]: Sec. 3.7. (a) This section applies to the

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- 1 following:
- 2 (1) The issuance of bonds or the entering into **of** a lease for a
- 3 controlled project:
- 4 (A) to which section 3.5 of this chapter applies; and
- 5 (B) for which a sufficient petition requesting the application of
- 6 the local public question process under section 3.6 of this
- 7 chapter has not been filed as set forth in section 3.5 of this
- 8 chapter within the time required under section 3.5(b)(7) of this
- 9 chapter.
- 10 (2) The issuance of bonds or the entering into **of** a lease for a
- 11 capital project:
- 12 (A) that is not a controlled project to which section 3.5 of this
- 13 chapter applies; and
- 14 (B) that would, but for the application of section 1.1(6) of this
- 15 chapter to the project, be a controlled project to which section
- 16 3.5 of this chapter applies.
- 17 (b) If the proper officers of a political subdivision make a
- 18 preliminary determination to issue bonds described in subsection (a) or
- 19 enter into a lease described in subsection (a), the fiscal body of the
- 20 political subdivision may adopt **at the same hearing** a resolution
- 21 specifying that the local public question process specified in section 3.6
- 22 of this chapter applies to the issuance of the bonds or the entering into
- 23 **of** the lease, notwithstanding that:
- 24 (1) a sufficient petition requesting the application of the local
- 25 public question process under section 3.6 of this chapter has not
- 26 been filed as set forth in section 3.5 of this chapter (in the case of
- 27 bonds or a lease described in subsection (a)(1)); or
- 28 (2) because of the application of section 1.1(6) of this chapter, the
- 29 bonds or lease is not considered to be issued or entered into for a
- 30 controlled project (in the case of bonds or a lease described in
- 31 subsection (a)(2)).
- 32 (c) The following apply to the adoption of a resolution by the fiscal
- 33 body of a political subdivision under subsection (b):
- 34 (1) In the case of bonds or a lease described in subsection (a)(1)
- 35 and for which no petition requesting the application of the local
- 36 public question process under section 3.6 of this chapter has been
- 37 filed within the time required under section 3.5(b)(7) of this
- 38 chapter, the fiscal body must adopt the resolution not more than
- 39 sixty (60) days after publication of the notice of the preliminary
- 40 determination to issue the bonds or enter into the lease.
- 41 (2) In the case of bonds or a lease described in subsection (a)(1)
- 42 for which a petition requesting the application of the local public

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1 question process under section 3.6 of this chapter:

2 (A) has been filed under section 3.5 of this chapter; and

3 (B) is determined to have an insufficient number of signatures
4 to require application of the local public question process
5 under section 3.6 of this chapter;

6 the fiscal body must adopt the resolution not more than thirty (30)
7 days after the county voter registration office makes the final
8 determination under section 3.5 of this chapter that a sufficient
9 number of persons have not signed the petition.

10 (3) In the case of bonds or a lease described in subsection (a)(2),
11 the fiscal body must adopt the resolution not more than thirty (30)
12 days after publication of the notice of the preliminary
13 determination to issue the bonds or enter into the lease.

14 (4) The fiscal body shall certify the resolution to the county
15 election board of each county in which the political subdivision
16 is located, and the county election board shall place the public
17 question on the ballot as provided in section 3.6 of this chapter.

18 (d) Except to the extent it is inconsistent with this section, section
19 3.6 of this chapter applies to a local public question placed on the
20 ballot under this section.

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