

## **IC 36-12-12**

### Chapter 12. Library Capital Projects Fund

#### **IC 36-12-12-0.2**

##### **Application of prior statute**

Sec. 0.2. The addition of IC 20-14-13 (before its repeal, now codified in this chapter) by P.L.343-1989(ss) applies to property taxes first due and payable after December 31, 1989.

*As added by P.L.220-2011, SEC.688.*

#### **IC 36-12-12-1**

##### **"Emergency"**

Sec. 1. As used in this chapter, "emergency" means:

- (1) when used with respect to repair or replacement, a fire, flood, windstorm, mechanical failure of any part of a structure, or other unforeseeable circumstance; and
- (2) when used with respect to site acquisition, the unforeseeable availability of real property for purchase.

*As added by P.L.1-2005, SEC.49.*

#### **IC 36-12-12-2**

##### **Capital projects fund**

Sec. 2. (a) A library district may establish a capital projects fund.

(b) With respect to a facility used or to be used by the library district, the fund may be used to pay for the following:

- (1) Planned construction, repair, replacement, or remodeling.
- (2) Site acquisition.
- (3) Site development.
- (4) Repair, replacement, or site acquisition that is necessitated by an emergency.

(c) Money in the fund may be used to pay for the purchase, lease, or repair of equipment to be used by the library district.

(d) The fund may be used to pay for the purchase, lease, upgrading, maintenance, or repair of computer hardware or software.

*As added by P.L.1-2005, SEC.49.*

#### **IC 36-12-12-3**

##### **Plan of revenues and expenditures; hearing; notice**

Sec. 3. (a) Before a library board may collect property taxes for a capital projects fund in a particular year, the library board must, after January 1 and before May 15 of the immediately preceding year, hold a public hearing on a proposed plan, pass a resolution to adopt a plan, and submit the plan for approval or rejection by the fiscal body designated in section 4 of this chapter.

(b) The department of local government finance shall prescribe the format of the plan. A plan must apply to at least the three (3) years immediately following the year the plan is adopted. A plan must estimate for each year to which the plan applies the nature and amount of proposed expenditures from the capital projects fund. A plan must estimate:

(1) the source of all revenue to be dedicated to the proposed expenditures in the upcoming budget year; and

(2) the amount of property taxes to be collected in that year and retained in the fund for expenditures proposed for a later year.

(c) If a hearing is scheduled under subsection (a), the governing body shall publish the proposed plan and a notice of the hearing in accordance with IC 5-3-1-2(b).

*As added by P.L.1-2005, SEC.49.*

#### **IC 36-12-12-4**

##### **Approval or rejection of plan by appropriate fiscal body; hearing**

Sec. 4. (a) If the library board passes a resolution under section 3 of this chapter, not later than ten (10) days after passing the resolution the board shall transmit a certified copy of the plan to the appropriate fiscal body or fiscal bodies, whichever applies. The appropriate fiscal body is determined as follows:

(1) If the library district is located entirely within the corporate boundaries of a municipality, the appropriate fiscal body is the fiscal body of the municipality.

(2) If the library district is not described by subdivision (1) and the district is located entirely within the boundaries of a township, the appropriate fiscal body is the fiscal body of the township.

(3) If the library district is not described by subdivision (1) or (2), the appropriate fiscal body is the fiscal body of each county in which the library district is located.

(b) The appropriate fiscal body shall hold a public hearing on the plan not later than thirty (30) days after receiving a certified copy of the plan and either reject or approve the plan before August 1 of the year that the plan is received.

*As added by P.L.1-2005, SEC.49.*

#### **IC 36-12-12-5**

##### **Review of plan by department of local government finance; notice; petition of objection by taxpayers**

Sec. 5. (a) If the library board passes a resolution under section 3 of this chapter and the appropriate fiscal body or bodies approve the plan, the library board shall submit the resolution and the plan to the department of local government finance. If the department of local government finance determines that:

(1) the library board has correctly advertised the plan under section 3(c) of this chapter;

(2) the plan was adopted by the library board and approved by the appropriate fiscal body or bodies; and

(3) the plan conforms to the format prescribed by the department;

the department shall require notice of the submission to be given to the taxpayers of the library district in accordance with IC 5-3-1-2(b).

(b) Ten (10) or more taxpayers who will be affected by the adopted plan may file a petition with the county auditor of a county

in which the library district is located not later than ten (10) days after the publication, setting forth the taxpayers' objections to the proposed plan. The county auditor shall immediately certify the petition to the department of local government finance.

*As added by P.L.1-2005, SEC.49.*

#### **IC 36-12-12-6**

##### **Notice and hearing; petition of objection by taxpayers**

Sec. 6. The department of local government finance shall, within a reasonable time, fix a date for a hearing on the petition filed under section 5(b) of this chapter. The hearing shall be held in a county in which the library district is located. The department of local government finance shall notify:

- (1) the library board; and
- (2) the first ten (10) taxpayers whose names appear on the petition;

at least five (5) days before the date fixed for the hearing.

*As added by P.L.1-2005, SEC.49.*

#### **IC 36-12-12-7**

##### **Department of local government finance action; appeal**

Sec. 7. (a) After a hearing upon the petition under section 6 of this chapter, the department of local government finance shall certify the department's approval, disapproval, or modification of the plan to the library board and the auditor of the county.

(b) A:

- (1) taxpayer who signed a petition filed under section 5 of this chapter; or
- (2) library district against which a petition under section 5 of this chapter is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45) days after the department certifies the department's action under subsection (a).

*As added by P.L.1-2005, SEC.49.*

#### **IC 36-12-12-8**

##### **Appropriations; conform to plan**

Sec. 8. Notwithstanding IC 6-1.1-17, the department of local government finance may approve appropriations from the capital projects fund only if the appropriations conform to a plan that has been adopted and approved in compliance with this chapter.

*As added by P.L.1-2005, SEC.49. Amended by P.L.1-2006, SEC.587.*

#### **IC 36-12-12-9**

##### **Amending plan; emergencies; increasing tax rate and borrowing funds**

Sec. 9. (a) A library board may amend an adopted and approved plan to:

- (1) provide money for the purposes described in section 2(b)(4) of this chapter; or
- (2) supplement money accumulated in the capital projects fund for those purposes.

(b) If an emergency arises that results in costs that exceed the amount accumulated in the fund for the purposes described in section 2(b)(4) of this chapter, the library board must immediately apply to the department of local government finance for a determination that an emergency exists. If the department of local government finance determines that an emergency exists, the library board may adopt a resolution to amend the plan. The amendment is not subject to the deadline and the procedures for adoption described in section 3 of this chapter. However, the amendment is subject to modification by the department of local government finance.

(c) An amendment adopted under this section may require the payment of eligible emergency costs from:

- (1) money accumulated in the capital projects fund for other purposes; or
- (2) money to be borrowed from other funds of the library board or from a financial institution.

The amendment may also provide for an increase in the property tax rate for the capital projects fund to restore money to the fund or to pay principal and interest on a loan. However, before the property tax rate for the fund may be increased, the library board must submit and obtain the approval of the appropriate fiscal body or bodies, as provided in section 4 of this chapter. An increase to the property tax rate for the capital projects fund is effective for property taxes first due and payable for the year next certified by the department of local government finance under IC 6-1.1-17-16. However, the property tax rate may not exceed the maximum rate established under section 10 of this chapter.

*As added by P.L.1-2005, SEC.49.*

### **IC 36-12-12-10**

#### **Tax rate; limit and advertisement**

Sec. 10. To provide for the capital projects fund, the library board may, for each year in which a plan adopted under section 3 of this chapter is in effect, impose a property tax rate that does not exceed one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of assessed valuation of the library district. This rate must be advertised in the same manner as other property tax rates.

*As added by P.L.1-2005, SEC.49.*

### **IC 36-12-12-11**

#### **Interest**

Sec. 11. Interest on the capital projects fund, including the fund's pro rata share of interest earned on the investment of total money on deposit, shall be deposited in the fund. The library board may allocate the interest among the accounts within the fund.

*As added by P.L.1-2005, SEC.49.*

**IC 36-12-12-12**

**Administrative rules**

Sec. 12. The department of local government finance may adopt rules under IC 4-22-2 to implement this chapter.

*As added by P.L.1-2005, SEC.49.*