
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions
FROM: Wesley R. Bennett, Commissioner
RE: Legislative Changes to Property Tax Referenda
DATE: May 27, 2021

The Department of Local Government Finance (“Department”) issues this memorandum to explain the changes to the property tax referendum process found in House Enrolled Act 1271-2021 (“HEA 1271”) and Senate Enrolled Act 55-2021 (“SEA 55”). Governor Eric Holcomb signed HEA 1271 and SEA 55 into law on April 8 and April 29, 2021, respectively.

I. Changes to Proposed Ballot Question

Sections 35, 61, 62, and 65 of HEA 1271 amend the form questions for a proposed property tax referendum found in Ind. Code § 6-1.1-20-3.6 (controlled projects), Ind. Code § 20-46-1-10 (school operations), Ind. Code § 20-46-1-10.1 (extension for school operations), and Ind. Code § 20-46-9-9 (school safety), respectively. The new form questions emphasize the percent increase in property taxes for homeowners and businesses. They also require the local unit to state the most recent property tax referendum that the local unit held (or for a school corporation extending an operating referendum, the date of the original referendum) and whether that referendum passed or failed.

A. Form Referendum Questions

1. Controlled Project Subject to a Referendum (IC 6-1.1-20-3.6)

“Shall _____ (insert the name of the political subdivision) increase property taxes paid to the _____ (insert the type of taxing unit) by homeowners and businesses? If this public question is approved by the voters, the average property tax paid to the _____ (insert the type of taxing unit) per year on a residence would increase by _____% (insert the estimated average percentage of property tax increase paid to the political subdivision on a residence within the political subdivision as determined under subsection (n)) and the average property tax paid to the _____ (insert the type of taxing unit) per year on a business property would increase by _____% (insert the estimated average percentage of property tax increase paid to the political subdivision on a business property within the political subdivision as determined under subsection (o)). The political subdivision may issue bonds or enter into a lease to (insert a brief description of the controlled

project), which is estimated to cost _____ (insert the total cost of the project) over _____ (insert number of years to bond maturity or termination of lease) years. The most recent property tax referendum within the boundaries of the political subdivision for which the public question is being considered was proposed by _____ (insert name of political subdivision) in _____ (insert year of most recent property tax referendum) and _____ (insert whether the measure passed or failed).”

2. School Operating Referendum (IC 20-46-1-10)

“Shall the school corporation increase property taxes paid to the school corporation by homeowners and businesses for _____ (insert number of years) years immediately following the holding of the referendum for the purpose of funding _____ (insert short description of purposes)? If this public question is approved by the voters, the average property tax paid to the school corporation per year on a residence would increase by _____% (insert the estimated average percentage of property tax increase paid to the school corporation on a residence within the school corporation as determined under subsection (c)) and the average property tax paid to the school corporation per year on a business property would increase by _____% (insert the estimated average percentage of property tax increase paid to the school corporation on a business property within the school corporation as determined under subsection (d)). The most recent property tax referendum proposed by the school corporation was held in _____ (insert year of most recent property tax referendum) and _____ (insert whether the measure passed or failed).”

3. Extending an Operating Referendum (IC 20-46-1-10.1)

“Shall the school corporation continue to impose increased property taxes paid to the school corporation by homeowners and businesses for _____ (insert number of years) years immediately following the holding of the referendum for the purpose of funding _____ (insert short description of purposes)? The property tax increase requested in this referendum was originally approved by the voters in _____ (insert the year in which the referendum tax levy was approved) and originally increased the average property tax paid to the school corporation per year on a residence within the school corporation by _____% (insert the original estimated average percentage of property tax increase paid to the school corporation on a residence within the school corporation) and originally increased the average property tax paid to the school corporation per year on a business property within the school corporation by _____% (insert the original estimated average percentage of property tax increase on a business property within the school corporation).”

4. School Safety Referendum (IC 20-46-9-9)

“Shall the school corporation increase property taxes paid to the school corporation by homeowners and businesses for _____ (insert number of years) years immediately following the holding of the referendum for the purpose of funding _____ (insert short description of purposes)? If this public question is approved by the voters, the average property tax paid to the school corporation per year on a residence would increase by _____% (insert the estimated average percentage of property tax increase paid to the school corporation on a residence within the school corporation as determined under subsection (b)) and the average property tax paid to the school corporation per year on a business property would increase by _____% (insert the estimated average percentage of property tax increase paid to the school corporation on a business property within the school corporation as determined under subsection (c)). The most recent property tax referendum proposed by the school corporation was held in _____ (insert year of most recent property tax referendum) and _____ (insert whether the measure passed or failed).”

B. Effect of the Amended Form Questions

The local unit must fill in the following blanks to the proposed form question:

- (1) The name of the local unit.
- (2) The type of taxing unit (county, city, town, township, school corporation, etc.)
- (3) The estimated average percentage of property tax increase on a residence within the local unit (see II. Estimated Average Percent Change in Taxes, below).
- (4) The estimated average percentage of property tax increase on business property within the local unit (see II. Estimated Average Percent Change in Taxes, below).
- (5) For a school operating or school safety referendum, a short description of purpose.
- (6) For a controlled project referendum, brief description, and total cost of the project.
- (7) Year of the most recent property tax referendum (whether it was a capital, operating, or safety referendum) and whether the measure passed or failed.

NOTE: None of the form questions include the proposed property tax rate that will be imposed on taxpayers. Taxpayers will therefore no longer see on the ballot the additional tax rate that would be paid if the referendum passes. Rather, the form questions emphasize that taxpayers will see an average percent increase to their property taxes if the referendum is successful. The Department therefore will no longer certify the tax rate for controlled project referenda or state the proposed tax rate for the school operating and safety referenda.

II. Estimated Average Percent Change in Taxes

The changes to the form questions in HEA 1271 also require that the form questions state the estimated average percent property tax increase on residences and business property that would result if the referendum was successful. This will apply for all three (3) types of property tax referenda (capital, school operating, and school safety).

Sections 35, 61, and 65 of HEA 1271 prescribe the formulas that are to be used for each respective referendum. Attached to this memo is a breakdown of the calculations as a separate document, [available here](#). HEA 1271 states that the local unit that proposes the referendum must make a request to the county auditor to calculate the estimated average percent increase in taxes. **The local unit should make the request and the county auditor should complete its calculations before the public question is presented to the Department for review.** For capital referenda, this is before the county election board certifies the public question under Ind. Code § 6-1.1-20-3.6(c). For operating and school safety referenda, this must be before the school board sends the public question to the Department under Ind. Code § 20-46-1-8(b) and Ind. Code § 20-46-9-6(c), as applicable.

HEA 1271 also does not address how an estimated average percent change must be calculated for a cross-county unit. In particular, which county auditor makes the calculation and returns it to the unit. The Department recommends that all the county auditors for each county that the unit is located in cooperate and share the responsibility to make the calculation. This is to ensure that each county's information is accurately represented in the calculation. The county auditor of the county where the majority of the unit's certified net assessed value ("CNAV") is located should return the certified estimated average percent change to the unit.

The Department will not prescribe a format for the response from the county auditor. However, the response must include a separate estimate for homesteads and for business property. The Department has issued another memorandum, entitled "Property Tax Referendum Calculations" which goes into greater detail about the calculations, [available here](#). In addition, the Department will request from the county auditor the data and worksheets that were used for purposes of the calculation.

III. Revenue Spending Plan

Senate Enrolled Act 55-2021 ("SEA 55") adds requirements for school corporations that both seek a property tax referendum (whether it for a controlled project, operating, or school safety) and impose property taxes due to a referendum.

A. Revenue Spending Plan

Sections 6 and 7 of SEA 55 require a school corporation to develop a revenue spending plan for an operating referendum or a school safety referendum.

When a school board adopts a resolution to conduct an operating or school safety referendum, the school corporation must develop the revenue spending plan and certify it to the Department along with the resolution pursuant to Ind. Code § 20-46-1-8 and Ind. Code § 20-46-9-6. See "Section C. Reporting to the Department" (below) on how to submit the revenue spending plan to the Department.

The revenue spending plan must include three items:

- (1) An estimate of the amount of annual revenue expected to be collected.
- (2) The specific purposes for which revenue collected from levy will be used.

- (3) An estimate of the annual dollar amounts that will be expended for each purpose.

SEA 55 does not indicate whether the plan can be amended or the process that must be done to amend it.

B. Additional Determination for a Controlled Project

Section 3 of SEA 55 amends IC 6-1.1-20-3.5 by adding subsection (e). Subsection (e) provides that a preliminary determination to issue bonds or enter into a lease agreement must include a statement of:

- (1) the maximum annual debt service for the controlled project for each year in which the debt service will be paid; and
- (2) the schedule of the estimated annual tax levy and rate over a ten (10) year period.

The statement must factor in changes that will occur to the debt service levy and tax rate during the period on account of any outstanding bonds or lease obligations that will mature or terminate during the period.

C. Reporting to the Department

Section 2 of SEA 55 amends Ind. Code § 6-1.1-17-3 by adding a new subsection (h). Subsection (h) states that each year, the school board must submit the following information to the Department at least ten (10) days before its public hearing on the budget:

- (1) The purposes specified in the public question or any revenue spending plans for
 - (A) debt service on bonds or lease rentals on a lease for a controlled project;
 - (B) an operating referendum tax levy; or
 - (C) a school safety referendum tax levy;as applicable.
- (2) The debt service levy fund, operating referendum tax levy fund, or school safety referendum tax levy fund, as applicable.

Indiana Code § 6-1.1-17-3(h) states that this information is submitted “to show whether the school corporation is using revenue collected from the referendum tax levy in the amounts and for the purposes established in the purposes specified in the public question or the revenue spending plan.” The Department must make this information available to taxpayers at least ten (10) days before the public hearing.

The information must be submitted in the manner prescribed by the Department. The Department requires that the information be uploaded through Gateway File Transmission, whether or not the information is contained in a revenue spending plan. Once uploaded, the Department will post the information as it does for capital projects plans and bus replacement plans.

IV. Effective Date & Timing

SEA 55 and the relevant portions of HEA 1271 are effective July 1, 2021. The certification deadline for the November referendum cycle remains August 1st. The Department is also still given ten (10) days to make a final determination on a proposed question. This has led to concerns about the ability of the school corporations to do the additional work necessary for putting a public question on the ballot—including preparing a revenue spending plan—in the month before the public question must be certified to the county election board.

The Department notes that school corporations and local units often engage in public campaigns to advertise the proposed referendum and associated projects to taxpayers. State law does not regulate the timetable in which this can occur (although it does regulate how the referendum can be promoted). State law only regulates the timing of when the public question must be certified. The Department recommends that local units refrain from developing the revenue spending plan and adopting a resolution on a proposed public question until on or after July 1, 2021, to meet the August 1st certification deadline. The Department reiterates that state law allows ten (10) days from the receipt of the proposed question for the Department to review & certify the public question.

The requirement to calculate the estimated average percent change may also not be fulfilled in preparation for a referendum in the May primary election because state law requires certification of the public question to take place around the end of February. This is before the time counties typically have their abstracts ready from which the county auditors can derive the data for homestead deductions, circuit breaker credits, etc. As a result, complying with the requirements of HEA 1271 and SEA 55 may not be possible for the May referendum.

Contact Information

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