

HOUSE BILL No. 1045

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20-3.6.

Synopsis: Controlled project referendum. Provides that if the estimated increase in a political subdivision's property tax levy for debt service for a proposed controlled project will be offset in whole or in part because of the retirement of existing debt of the political subdivision, the proper officers of the political subdivision may adopt a resolution that does the following: (1) Includes a schedule that specifies certain information concerning the debt service for the controlled project and the expected changes in the political subdivision's total debt service payments that will result because the debt service for the controlled project will be offset by the retirement of existing debt. (2) States that the political subdivision intends to maintain the political subdivision's total debt service property tax rate (including debt service for the controlled project and for all other debt of the political subdivision) at or below a specified tax rate. Provides that the political subdivision's statement that it intends to maintain its total debt service property tax rate at or below a specified tax rate may include exceptions for specified projects or purposes, including any projects that the political subdivision declares are required by an emergency or are required for the safety and security of citizens or students. Specifies the ballot language for the referendum on such a proposed controlled project.

Effective: July 1, 2018.

Thompson

January 3, 2018, read first time and referred to Committee on Ways and Means.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1045



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.246-2017,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: 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 (k)~~; **subsections (d) and (l)**,
14 the following question shall be submitted to the eligible voters at the
15 election conducted under this 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 in the form approved by
 7 the county election board. If the political subdivision proposing to issue
 8 bonds or enter into a lease is located in more than one (1) county, the
 9 county election board of each county shall jointly approve the form of
 10 the public question that will appear on the ballot in each county. The
 11 form approved by the county election board may differ from the
 12 language certified to the county election board by the county auditor.
 13 If the county election board approves the language of a public question
 14 under this subsection, the county election board shall submit the
 15 language to the department of local government finance for review.

16 **(d) If the estimated increase in a political subdivision's property**
 17 **tax levy for debt service for a controlled project will be offset in**
 18 **whole or in part because of the retirement of existing debt of the**
 19 **political subdivision, the proper officers of the political subdivision**
 20 **may adopt a resolution that does the following:**

21 **(1) Includes a schedule that specifies:**

22 **(A) the maximum annual debt service for the controlled**
 23 **project for each year in which such debt service will be**
 24 **paid;**

25 **(B) the information described in section 3.5(b)(3)(G)(iii) of**
 26 **this chapter concerning the estimated amount of the**
 27 **political subdivision's debt service levy and tax rate that**
 28 **will result during the following ten (10) years if the**
 29 **political subdivision issues the bonds or enters into the**
 30 **lease for the controlled project, after also considering any**
 31 **changes that will occur to the debt service levy and tax rate**
 32 **during that period on account of any outstanding bonds or**
 33 **lease obligations that will mature or terminate during that**
 34 **period; and**

35 **(C) whether:**

36 **(i) the outstanding bonds or lease obligations that will**
 37 **mature or terminate during the following ten (10) years**
 38 **were approved in a public question under this chapter;**
 39 **and**

40 **(ii) the property taxes imposed to pay the outstanding**
 41 **bonds or lease obligations described in item (i) are**
 42 **excluded from consideration in calculating tax credits**



1 for purposes of the property tax caps under
2 IC 6-1.1-20.6.

3 (2) States that the proper officers of the political subdivision
4 intend to maintain the political subdivision's total debt service
5 property tax rate (including debt service for the controlled
6 project and for all other debt of the political subdivision) at or
7 below a specified property tax rate. The political subdivision's
8 statement that it intends to maintain its total debt service
9 property tax rate at or below such a specified property tax
10 rate may include exceptions for specified projects or purposes,
11 including any projects that the proper officers of the political
12 subdivision declare are required by an emergency or are
13 required for the safety and security of citizens or students.

14 If a political subdivision adopts a resolution under this subsection,
15 the proper officers of the political subdivision shall submit to the
16 department of local government finance a copy of the resolution,
17 information specifying the amount of existing debt that will be
18 retired, and a calculation showing the effect that the retirement of
19 the existing debt will have on the political subdivision's overall debt
20 service tax rates and levies. Except as provided in subsection (l), if
21 a political subdivision adopts a resolution under this subsection, the
22 following question shall be submitted to the eligible voters at the
23 election conducted under this section:

24 "Shall _____ (insert the name of the political subdivision)
25 issue bonds or enter into a lease to finance _____
26 (insert a brief description of the controlled project), which is
27 estimated to cost not more than _____ (insert the total cost
28 of the project), with an estimated property tax rate for the
29 project of _____ (insert the property tax rate for the
30 controlled project as determined by the department of local
31 government finance) but with the following estimated net
32 change in the total debt service property tax rate, after
33 accounting for the retirement of existing debt: _____
34 (insert net change in the political subdivision's total debt
35 service property tax rate, as determined by the department of
36 local government finance, after accounting for the retirement
37 of existing debt)?".

38 The public question must appear on the ballot in the form
39 approved by the county election board. If the political subdivision
40 proposing to issue bonds or enter into a lease is located in more
41 than one (1) county, the county election board of each county shall
42 jointly approve the form of the public question that will appear on



1 **the ballot in each county. The form approved by the county**
 2 **election board may differ from the language certified to the county**
 3 **election board by the county auditor. If the county election board**
 4 **approves the language of a public question under this subsection,**
 5 **the county election board shall submit the language to the**
 6 **department of local government finance for review.**

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

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

- 31 (1) seventy-four (74) days before a primary election if the public
 32 question is to be placed on the primary or municipal primary
 33 election ballot; or
- 34 (2) August 1 if the public question is to be placed on the general
 35 or municipal election ballot.

36 Subject to the certification requirements and deadlines under this
 37 subsection and except as provided in subsection ~~(j)~~ **(i)**, the public
 38 question shall be placed on the ballot at the next primary election,
 39 general election, or municipal election in which all voters of the
 40 political subdivision are entitled to vote. However, if a primary
 41 election, general election, or municipal election will not be held during
 42 the first year in which the public question is eligible to be placed on the



1 ballot under this section and if the political subdivision requests the
 2 public question to be placed on the ballot at a special election, the
 3 public question shall be placed on the ballot at a special election to be
 4 held on the first Tuesday after the first Monday in May or November
 5 of the year. The certification must occur not later than noon
 6 seventy-four (74) days before a special election to be held in May (if
 7 the special election is to be held in May) or noon on August 1 (if the
 8 special election is to be held in November). The fiscal body of the
 9 political subdivision that requests the special election shall pay the
 10 costs of holding the special election. The county election board shall
 11 give notice under IC 5-3-1 of a special election conducted under this
 12 subsection. A special election conducted under this subsection is under
 13 the direction of the county election board. The county election board
 14 shall take all steps necessary to carry out the special election.

15 ~~(f)~~ **(g)** The circuit court clerk shall certify the results of the public
 16 question to the following:

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

19 (2) The department of local government finance.

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

24 ~~(h)~~ **(i)** If a majority of the eligible voters voting on the public
 25 question vote in opposition to the public question, both of the following
 26 apply:

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

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

32 (A) except as provided in clause (B), seven hundred (700)
 33 days after the date of the public question; or

34 (B) three hundred fifty (350) days after the date of the election,
 35 if a petition that meets the requirements of subsection ~~(m)~~ **(n)**
 36 is submitted to the county auditor.

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

39 ~~(j)~~ **(k)** A political subdivision may not divide a controlled project in
 40 order to avoid the requirements of this section and section 3.5 of this
 41 chapter. A person that owns property within a political subdivision or
 42 a person that is a registered voter residing within a political subdivision



1 may file a petition with the department of local government finance
2 objecting that the political subdivision has divided a controlled project
3 into two (2) or more capital projects in order to avoid the requirements
4 of this section and section 3.5 of this chapter. The petition must be filed
5 not more than ten (10) days after the political subdivision gives notice
6 of the political subdivision's decision under section 3.5 of this chapter
7 or a determination under section 5 of this chapter to issue bonds or
8 enter into leases for a capital project that the person believes is the
9 result of a division of a controlled project that is prohibited by this
10 subsection. If the department of local government finance receives a
11 petition under this subsection, the department shall not later than thirty
12 (30) days after receiving the petition make a final determination on the
13 issue of whether the political subdivision divided a controlled project
14 in order to avoid the requirements of this section and section 3.5 of this
15 chapter. If the department of local government finance determines that
16 a political subdivision divided a controlled project in order to avoid the
17 requirements of this section and section 3.5 of this chapter and the
18 political subdivision continues to desire to proceed with the project, the
19 political subdivision may appeal the determination of the department
20 of local government finance to the Indiana board of tax review. A
21 political subdivision shall be considered to have divided a capital
22 project in order to avoid the requirements of this section and section
23 3.5 of this chapter if the result of one (1) or more of the subprojects
24 cannot reasonably be considered an independently desirable end in
25 itself without reference to another capital project. This subsection does
26 not prohibit a political subdivision from undertaking a series of capital
27 projects in which the result of each capital project can reasonably be
28 considered an independently desirable end in itself without reference
29 to another capital project.

30 ~~(*)~~ **(I)** This subsection applies to a political subdivision for which a
31 petition requesting a public question has been submitted under section
32 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of
33 the political subdivision may adopt a resolution to withdraw a
34 controlled project from consideration in a public question. If the
35 legislative body provides a certified copy of the resolution to the county
36 auditor and the county election board not later than sixty-three (63)
37 days before the election at which the public question would be on the
38 ballot, the public question on the controlled project shall not be placed
39 on the ballot and the public question on the controlled project shall not
40 be held, regardless of whether the county auditor has certified the
41 public question to the county election board. If the withdrawal of a
42 public question under this subsection requires the county election



1 board to reprint ballots, the political subdivision withdrawing the
 2 public question shall pay the costs of reprinting the ballots. If a political
 3 subdivision withdraws a public question under this subsection that
 4 would have been held at a special election and the county election
 5 board has printed the ballots before the legislative body of the political
 6 subdivision provides a certified copy of the withdrawal resolution to
 7 the county auditor and the county election board, the political
 8 subdivision withdrawing the public question shall pay the costs
 9 incurred by the county in printing the ballots. If a public question on a
 10 controlled project is withdrawn under this subsection, a public question
 11 under this section on the same controlled project or a substantially
 12 similar controlled project may not be submitted to the voters earlier
 13 than three hundred fifty (350) days after the date the resolution
 14 withdrawing the public question is adopted.

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

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

23 (2) The effect that approval of the controlled project would have
 24 on the political subdivision's property tax rate. **If the retirement**
 25 **of existing debt of the political subdivision will affect the**
 26 **political subdivision's tax rate, the political subdivision must**
 27 **provide information specifying:**

28 (A) the amount of the debt that will be retired;

29 (B) the impact that the retirement of the debt will have on
 30 the political subdivision's property tax rate; and

31 (C) the net change in the political subdivision's total debt
 32 service property tax rate, after accounting for the
 33 retirement of the existing debt.

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

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

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

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

40 (7) In the case of a controlled project proposed by a school
 41 corporation:

42 (A) the current and proposed square footage of school building



1 space per student;
 2 (B) enrollment patterns within the school corporation; and
 3 (C) the age and condition of the current school facilities.
 4 ~~(m)~~ **(n)** If a majority of the eligible voters voting on the public
 5 question vote in opposition to the public question, a petition may be
 6 submitted to the county auditor to request that the limit under
 7 subsection ~~(h)(2)(B)~~ **(i)(2)(B)** apply to the holding of a subsequent
 8 public question by the political subdivision. If such a petition is
 9 submitted to the county auditor and is signed by the lesser of:
 10 (1) five hundred (500) persons who are either owners of property
 11 within the political subdivision or registered voters residing
 12 within the political subdivision; or
 13 (2) five percent (5%) of the registered voters residing within the
 14 political subdivision;
 15 the limit under subsection ~~(h)(2)(B)~~ **(i)(2)(B)** applies to the holding of
 16 a second public question by the political subdivision and the limit
 17 under subsection ~~(h)(2)(A)~~ **(i)(2)(A)** does not apply to the holding of
 18 a second public question by the political subdivision.

