

HOUSE BILL No. 1146

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20-3.6; IC 20-46-1.

Synopsis: Capital project and referendum levy referenda. Provides that a referendum on a controlled project may be held only at a general election, if the preliminary determination to issue bonds or enter into a lease for the controlled project is made after June 30, 2015. Provides that a referendum for a referendum tax levy of a school corporation may be held only at a general election, if the resolution to hold the referendum is adopted after June 30, 2015. Allows the public question on a controlled project or a referendum levy to be supplemented with information intended to illustrate the effect of approving the controlled project or referendum levy on property taxes in the affected political subdivision. Requires that the supplemental information must be based upon data readily available to the political subdivision and the department of local government finance (DLGF). Requires that the supplemental information must be submitted to the DLGF for approval. Requires the DLGF to review proposed referendum levy ballot language for bias and accuracy.

Effective: July 1, 2015.

Frizzell, Smith M

January 8, 2015, read first time and referred to Committee on Ways and Means.



First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1146



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.219-2013,
2 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: 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) (a) If:
7 (1) a sufficient petition requesting the application of the local
8 public question process has been filed as set forth in section 3.5
9 of this chapter; or
10 (2) a resolution specifying the application of the local public
11 question process has been adopted under section 3.7 or 3.8 of
12 this chapter;
13 a political subdivision may not impose property taxes to pay debt
14 service on bonds or lease rentals on a lease for a controlled project
15 unless the political subdivision's proposed debt service or lease rental



1 is approved in an election on a local public question held under this
2 section.

3 **(b) If a preliminary determination to issue bonds or enter into**
4 **a lease for a controlled project subject to this section is made after**
5 **June 30, 2015, the election on the local public question for the**
6 **controlled project may be held only at a general election.**

7 (c) Except as provided in subsection ~~(k)~~, (l), the following question
8 shall be submitted to the eligible voters at the election conducted under
9 this section:

10 "Shall _____ (insert the name of the political subdivision)
11 issue bonds or enter into a lease to finance _____ (insert
12 a brief description of the controlled project), which is estimated
13 to cost not more than _____ (insert the total cost of the project)
14 and is estimated to increase the property tax rate for debt service
15 by _____ (insert increase in tax rate as determined by the
16 department of local government finance)?"

17 **In addition, the public question may be supplemented with**
18 **information intended to illustrate the effect of approving the**
19 **controlled project on property taxes in the political subdivision.**
20 **The information must be based upon data readily available to the**
21 **political subdivision and the department of local government**
22 **finance. The information may be presented in the form of a**
23 **hypothetical relevant to the taxpayers of one (1) or more taxing**
24 **districts affected by the proposed controlled project. Any**
25 **supplemental information included on the ballot with the public**
26 **question must be approved by the department of local government**
27 **finance under subsection (d).** The public question must appear on the
28 ballot in the form approved by the county election board. If the political
29 subdivision proposing to issue bonds or enter into a lease is located in
30 more than one (1) county, the county election board of each county
31 shall jointly approve the form of the public question that will appear on
32 the ballot in each county. The form approved by the county election
33 board may differ from the language certified to the county election
34 board by the county auditor. If the county election board approves the
35 language of a public question under this subsection, the county election
36 board shall submit the language to the department of local government
37 finance for review.

38 (d) The department of local government finance shall review the
39 language of the public question to evaluate whether the description of
40 the controlled project is accurate and is not biased against either a vote
41 in favor of the controlled project or a vote against the controlled
42 project. The department of local government finance may either



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

17 (e) **This subsection applies only to the certification of a local**
 18 **public question concerning a controlled project for which a**
 19 **preliminary determination to issue bonds or enter into a lease is**
 20 **made before July 1, 2015.** The county auditor shall certify the finally
 21 approved public question under IC 3-10-9-3 to the county election
 22 board of each county in which the political subdivision is located. The
 23 certification must occur not later than noon:

24 (1) seventy-four (74) days before a primary election if the public
 25 question is to be placed on the primary or municipal primary
 26 election 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 ~~(k)~~, **(l)**, the public
 31 question shall be placed on the ballot at the next primary election,
 32 general election, or municipal election in which all voters of the
 33 political subdivision are entitled to vote. However, if a primary
 34 election, general election, or municipal election will not be held during
 35 the first year in which the public question is eligible to be placed on the
 36 ballot under this section and if the political subdivision requests the
 37 public question to be placed on the ballot at a special election, the
 38 public question shall be placed on the ballot at a special election to be
 39 held on the first Tuesday after the first Monday in May or November
 40 of the year. The certification must occur not later than noon
 41 seventy-four (74) days before a special election to be held in May (if
 42 the special election is to be held in May) or noon on August 1 (if the



1 special election is to be held in November). The fiscal body of the
 2 political subdivision that requests the special election shall pay the
 3 costs of holding the special election. The county election board shall
 4 give notice under IC 5-3-1 of a special election conducted under this
 5 subsection. A special election conducted under this subsection is under
 6 the direction of the county election board. The county election board
 7 shall take all steps necessary to carry out the special election.

8 **(f) This subsection applies only to the certification of a local**
 9 **public question concerning a controlled project for which a**
 10 **preliminary determination to issue bonds or enter into a lease is**
 11 **made after June 30, 2015. The county auditor shall certify the**
 12 **finally approved public question under IC 3-10-9-3 to the county**
 13 **election board of each county in which the political subdivision is**
 14 **located. The certification must occur not later than noon on August**
 15 **1 of the year in which the public question is to be placed on the**
 16 **general election ballot. Subject to the certification requirements**
 17 **and deadlines under this subsection and except as provided in**
 18 **subsection (l), the public question shall be placed on the ballot at**
 19 **the next general election in which all voters of the political**
 20 **subdivision are entitled to vote.**

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

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

25 (2) The department of local government finance.

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

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

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

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

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

40 ~~(j)~~ **(k)** A political subdivision may not artificially divide a capital
 41 project into multiple capital projects in order to avoid the requirements
 42 of this section and section 3.5 of this chapter.



1 (†) (l) This subsection applies to a political subdivision for which a
 2 petition requesting a public question has been submitted under section
 3 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of
 4 the political subdivision may adopt a resolution to withdraw a
 5 controlled project from consideration in a public question. If the
 6 legislative body provides a certified copy of the resolution to the county
 7 auditor and the county election board not later than sixty-three (63)
 8 days before the election at which the public question would be on the
 9 ballot, the public question on the controlled project shall not be placed
 10 on the ballot and the public question on the controlled project shall not
 11 be held, regardless of whether the county auditor has certified the
 12 public question to the county election board. If the withdrawal of a
 13 public question under this subsection requires the county election
 14 board to reprint ballots, the political subdivision withdrawing the
 15 public question shall pay the costs of reprinting the ballots. If a political
 16 subdivision withdraws a public question under this subsection that
 17 would have been held at a special election and the county election
 18 board has printed the ballots before the legislative body of the political
 19 subdivision provides a certified copy of the withdrawal resolution to
 20 the county auditor and the county election board, the political
 21 subdivision withdrawing the public question shall pay the costs
 22 incurred by the county in printing the ballots. If a public question on a
 23 controlled project is withdrawn under this subsection, a public question
 24 under this section on the same controlled project or a substantially
 25 similar controlled project may not be submitted to the voters earlier
 26 than one (1) year after the date the resolution withdrawing the public
 27 question is adopted.

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

- 34 (1) The cost per square foot of any buildings being constructed as
 35 part of the controlled project.
- 36 (2) The effect that approval of the controlled project would have
 37 on the political subdivision's property tax rate.
- 38 (3) The maximum term of the bonds or lease.
- 39 (4) The maximum principal amount of the bonds or the maximum
 40 lease rental for the lease.
- 41 (5) The estimated interest rates that will be paid and the total
 42 interest costs associated with the bonds or lease.



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

2 (7) In the case of a controlled project proposed by a school
3 corporation:

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

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

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

8 SECTION 2. IC 20-46-1-8, AS AMENDED BY P.L.166-2014,
9 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 8. (a) Subject to this chapter, the governing body
11 of a school corporation may adopt a resolution to place a referendum
12 under this chapter on the ballot for either of the following purposes:

13 (1) The governing body of the school corporation determines that
14 it cannot, in a calendar year, carry out its public educational duty
15 unless it imposes a referendum tax levy under this chapter.

16 (2) The governing body of the school corporation determines that
17 a referendum tax levy under this chapter should be imposed to
18 replace property tax revenue that the school corporation will not
19 receive because of the application of the credit under
20 IC 6-1.1-20.6.

21 (b) The governing body of the school corporation shall certify a
22 copy of the resolution to the following:

23 (1) The department of local government finance, including (in the
24 case of a resolution certified to the department of local
25 government finance after April 30, 2011) the language for the
26 question required by section 10 of this chapter. In the case of a
27 resolution certified to the department of local government finance
28 after April 30, 2011, the department shall review the language for
29 compliance with **subsection (c) and** section 10 of this chapter and
30 either approve or reject the language. The department shall send
31 its decision to the governing body of the school corporation not
32 more than ten (10) days after the resolution is submitted to the
33 department. If the language is approved, the governing body of
34 the school corporation shall certify a copy of the resolution,
35 including the language for the question and the department's
36 approval.

37 (2) The county fiscal body of each county in which the school
38 corporation is located (for informational purposes only).

39 (3) The circuit court clerk of each county in which the school
40 corporation is located.

41 **(c) The department of local government finance shall review the**
42 **language received under subsection (b) to evaluate whether the**



1 **language of the question is accurate and is not biased against either**
 2 **a vote in favor of the referendum levy or a vote against the**
 3 **referendum levy. The department of local government finance may**
 4 **either approve the ballot language as submitted or recommend that**
 5 **the ballot language be modified as necessary to ensure that the**
 6 **description of the proposed referendum levy is accurate and is not**
 7 **biased.**

8 SECTION 3. IC 20-46-1-10, AS AMENDED BY P.L.155-2014,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2015]: Sec. 10. (a) The question to be submitted to the voters
 11 in the referendum must read as follows:

12 "For the __ (insert number) calendar year or years immediately
 13 following the holding of the referendum, shall the school
 14 corporation impose a property tax rate that does not exceed
 15 _____ (insert amount) cents (\$0. __) (insert amount) on
 16 each one hundred dollars (\$100) of assessed valuation and that is
 17 in addition to all other property taxes imposed by the school
 18 corporation for the purpose of funding _____
 19 (insert short description of purposes)?"

20 **(b) In addition, the public question may be supplemented with**
 21 **information intended to illustrate the effect of approving the**
 22 **referendum levy on property taxes in the school corporation. The**
 23 **information must be based upon data readily available to the**
 24 **school corporation and the department of local government**
 25 **finance. The information may be presented in the form of a**
 26 **hypothetical relevant to the taxpayers of one (1) or more taxing**
 27 **districts affected by the proposed referendum levy. Any**
 28 **supplemental information included on the ballot with the public**
 29 **question must be approved by the department of local government**
 30 **finance under section 8 of this chapter.**

31 SECTION 4. IC 20-46-1-14, AS AMENDED BY P.L.166-2014,
 32 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2015]: Sec. 14. (a) **This section applies only to a**
 34 **referendum specified in a resolution adopted under section 8 of this**
 35 **chapter before July 1, 2015.**

36 ~~(a)~~ (b) The referendum shall be held in the next primary election,
 37 general election, or municipal election in which all the registered voters
 38 who are residents of the appellant school corporation are entitled to
 39 vote after certification of the question under IC 3-10-9-3. The
 40 certification of the question must occur not later than noon:

41 (1) sixty (60) days before a primary election if the question is to
 42 be placed on the primary or municipal primary election ballot; or



- 1 (2) August 1 if the question is to be placed on the general or
2 municipal election ballot.
- 3 However, if a primary election, general election, or municipal election
4 will not be held during the first year in which the public question is
5 eligible to be placed on the ballot under this chapter and if the
6 appellant school corporation requests the public question to be placed
7 on the ballot at a special election, the public question shall be placed
8 on the ballot at a special election to be held on the first Tuesday after
9 the first Monday in May or November of the year. The certification
10 must occur not later than noon:
- 11 (1) sixty (60) days before a special election to be held in May (if
12 the special election is to be held in May); or
- 13 (2) on August 1 (if the special election is to be held in
14 November).
- 15 ~~(b)~~ (c) If the referendum is not conducted at a primary election,
16 general election, or municipal election, the appellant school
17 corporation in which the referendum is to be held shall pay all the costs
18 of holding the referendum.
- 19 SECTION 5. IC 20-46-1-14.5 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2015]: **Sec. 14.5. (a) This section applies only**
22 **to a referendum specified in a resolution adopted under section 8**
23 **of this chapter after June 30, 2015.**
- 24 **(b) The referendum shall be held in the next general election in**
25 **which all the registered voters who are residents of the appellant**
26 **school corporation are entitled to vote after certification of the**
27 **question under IC 3-10-9-3. The certification of the question must**
28 **occur not later than noon on August 1 of the year in which the**
29 **referendum is held.**

