

HOUSE BILL No. 1252

DIGEST OF INTRODUCED BILL

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

Synopsis: Petition and remonstrance process. Provides that the local public question that is used in a referendum to issue debt for a political subdivision's controlled project may not exceed 200 words.

Effective: July 1, 2018.

Richardson

January 16, 2018, read first time and referred to Committee on Local Government.



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. 1252

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

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), the following question
14 shall be submitted to the eligible voters at the election conducted under
15 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 may not exceed two hundred (200) words.** The
 7 public question must appear on the ballot in the form approved by the
 8 county election board. If the political subdivision proposing to issue
 9 bonds or enter into a lease is located in more than one (1) county, the
 10 county election board of each county shall jointly approve the form of
 11 the public question that will appear on the ballot in each county. The
 12 form approved by the county election board may differ from the
 13 language certified to the county election board by the county auditor.
 14 If the county election board approves the language of a public question
 15 under this subsection, the county election board shall submit the
 16 language to the department of local government finance for review.

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

37 (e) The county auditor shall certify the finally approved public
 38 question under IC 3-10-9-3 to the county election board of each county
 39 in which the political subdivision is located. The certification must
 40 occur not later than noon:

41 (1) seventy-four (74) days before a primary election if the public
 42 question is to be placed on the primary or municipal primary



- 1 election ballot; or
2 (2) August 1 if the public question is to be placed on the general
3 or municipal election ballot.
- 4 Subject to the certification requirements and deadlines under this
5 subsection and except as provided in subsection (j), the public question
6 shall be placed on the ballot at the next primary election, general
7 election, or municipal election in which all voters of the political
8 subdivision are entitled to vote. However, if a primary election, general
9 election, or municipal election will not be held during the first year in
10 which the public question is eligible to be placed on the ballot under
11 this section and if the political subdivision requests the public question
12 to be placed on the ballot at a special election, the public question shall
13 be placed on the ballot at a special election to be held on the first
14 Tuesday after the first Monday in May or November of the year. The
15 certification must occur not later than noon seventy-four (74) days
16 before a special election to be held in May (if the special election is to
17 be held in May) or noon on August 1 (if the special election is to be
18 held in November). The fiscal body of the political subdivision that
19 requests the special election shall pay the costs of holding the special
20 election. The county election board shall give notice under IC 5-3-1 of
21 a special election conducted under this subsection. A special election
22 conducted under this subsection is under the direction of the county
23 election board. The county election board shall take all steps necessary
24 to carry out the special election.
- 25 (f) The circuit court clerk shall certify the results of the public
26 question to the following:
- 27 (1) The county auditor of each county in which the political
28 subdivision is located.
29 (2) The department of local government finance.
- 30 (g) Subject to the requirements of IC 6-1.1-18.5-8, the political
31 subdivision may issue the proposed bonds or enter into the proposed
32 lease rental if a majority of the eligible voters voting on the public
33 question vote in favor of the public question.
- 34 (h) If a majority of the eligible voters voting on the public question
35 vote in opposition to the public question, both of the following apply:
- 36 (1) The political subdivision may not issue the proposed bonds or
37 enter into the proposed lease rental.
38 (2) Another public question under this section on the same or a
39 substantially similar project may not be submitted to the voters
40 earlier than:
- 41 (A) except as provided in clause (B), seven hundred (700)
42 days after the date of the public question; or



- 1 (B) three hundred fifty (350) days after the date of the election,
2 if a petition that meets the requirements of subsection (m) is
3 submitted to the county auditor.
- 4 (i) IC 3, to the extent not inconsistent with this section, applies to an
5 election held under this section.
- 6 (j) A political subdivision may not divide a controlled project in
7 order to avoid the requirements of this section and section 3.5 of this
8 chapter. A person that owns property within a political subdivision or
9 a person that is a registered voter residing within a political subdivision
10 may file a petition with the department of local government finance
11 objecting that the political subdivision has divided a controlled project
12 into two (2) or more capital projects in order to avoid the requirements
13 of this section and section 3.5 of this chapter. The petition must be filed
14 not more than ten (10) days after the political subdivision gives notice
15 of the political subdivision's decision under section 3.5 of this chapter
16 or a determination under section 5 of this chapter to issue bonds or
17 enter into leases for a capital project that the person believes is the
18 result of a division of a controlled project that is prohibited by this
19 subsection. If the department of local government finance receives a
20 petition under this subsection, the department shall not later than thirty
21 (30) days after receiving the petition make a final determination on the
22 issue of whether the political subdivision divided a controlled project
23 in order to avoid the requirements of this section and section 3.5 of this
24 chapter. If the department of local government finance determines that
25 a political subdivision divided a controlled project in order to avoid the
26 requirements of this section and section 3.5 of this chapter and the
27 political subdivision continues to desire to proceed with the project, the
28 political subdivision may appeal the determination of the department
29 of local government finance to the Indiana board of tax review. A
30 political subdivision shall be considered to have divided a capital
31 project in order to avoid the requirements of this section and section
32 3.5 of this chapter if the result of one (1) or more of the subprojects
33 cannot reasonably be considered an independently desirable end in
34 itself without reference to another capital project. This subsection does
35 not prohibit a political subdivision from undertaking a series of capital
36 projects in which the result of each capital project can reasonably be
37 considered an independently desirable end in itself without reference
38 to another capital project.
- 39 (k) This subsection applies to a political subdivision for which a
40 petition requesting a public question has been submitted under section
41 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of
42 the political subdivision may adopt a resolution to withdraw a



1 controlled project from consideration in a public question. If the
 2 legislative body provides a certified copy of the resolution to the county
 3 auditor and the county election board not later than sixty-three (63)
 4 days before the election at which the public question would be on the
 5 ballot, the public question on the controlled project shall not be placed
 6 on the ballot and the public question on the controlled project shall not
 7 be held, regardless of whether the county auditor has certified the
 8 public question to the county election board. If the withdrawal of a
 9 public question under this subsection requires the county election
 10 board to reprint ballots, the political subdivision withdrawing the
 11 public question shall pay the costs of reprinting the ballots. If a political
 12 subdivision withdraws a public question under this subsection that
 13 would have been held at a special election and the county election
 14 board has printed the ballots before the legislative body of the political
 15 subdivision provides a certified copy of the withdrawal resolution to
 16 the county auditor and the county election board, the political
 17 subdivision withdrawing the public question shall pay the costs
 18 incurred by the county in printing the ballots. If a public question on a
 19 controlled project is withdrawn under this subsection, a public question
 20 under this section on the same controlled project or a substantially
 21 similar controlled project may not be submitted to the voters earlier
 22 than three hundred fifty (350) days after the date the resolution
 23 withdrawing the public question is adopted.

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

- 30 (1) The cost per square foot of any buildings being constructed as
 31 part of the controlled project.
- 32 (2) The effect that approval of the controlled project would have
 33 on the political subdivision's property tax rate.
- 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) If a majority of the eligible voters voting on the public question
5 vote in opposition to the public question, a petition may be submitted
6 to the county auditor to request that the limit under subsection
7 (h)(2)(B) apply to the holding of a subsequent public question by the
8 political subdivision. If such a petition is submitted to the county
9 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) applies to the holding of a second
16 public question by the political subdivision and the limit under
17 subsection (h)(2)(A) does not apply to the holding of a second public
18 question by the political subdivision.

