

HOUSE BILL No. 1391

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-20.

Synopsis: Controlled projects. Provides that the term "controlled project" in the statute applicable to the issuing of bonds and other evidences of indebtedness by political subdivisions does not include: (1) an infrastructure project; or (2) a project for the construction of a data center. Increases from \$25,000,000 to \$50,000,000 the aggregate limit of costs of controlled projects for any 365 day period above which a political subdivision is required to conduct a referendum for additional proposed controlled projects.

Effective: July 1, 2019.

Goodrich

January 14, 2019, read first time and referred to Committee on Ways and Means.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1391

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 6-1.1-20-1.1, AS AMENDED BY P.L.246-2017,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 1.1. As used in this chapter, "controlled project"
4 means any project financed by bonds or a lease, except for the
5 following:
6 (1) A project for which the political subdivision reasonably
7 expects to pay:
8 (A) debt service; or
9 (B) lease rentals;
10 from funds other than property taxes that are exempt from the
11 levy limitations of IC 6-1.1-18.5 or (before January 1, 2009)
12 IC 20-45-3. A project is not a controlled project even though the
13 political subdivision has pledged to levy property taxes to pay the
14 debt service or lease rentals if those other funds are insufficient.
15 (2) A project that will not cost the political subdivision more than
16 the lesser of the following:
17 (A) An amount equal to the following:



- 1 (i) In the case of an ordinance or resolution adopted before
 2 January 1, 2018, making a preliminary determination to
 3 issue bonds or enter into a lease for the project, two million
 4 dollars (\$2,000,000).
 5 (ii) In the case of an ordinance or resolution adopted after
 6 December 31, 2017, and before January 1, 2019, making a
 7 preliminary determination to issue bonds or enter into a
 8 lease for the project, five million dollars (\$5,000,000).
 9 (iii) In the case of an ordinance or resolution adopted in a
 10 calendar year after December 31, 2018, making a
 11 preliminary determination to issue bonds or enter into a
 12 lease for the project, an amount (as determined by the
 13 department of local government finance) equal to the result
 14 of the assessed value growth quotient determined under
 15 IC 6-1.1-18.5-2 for the year multiplied by the amount
 16 determined under this clause for the preceding calendar
 17 year.
 18 The department of local government finance shall publish the
 19 threshold determined under item (iii) in the Indiana Register
 20 under IC 4-22-7-7 not more than sixty (60) days after the date
 21 the budget agency releases the growth quotient for the ensuing
 22 year under IC 6-1.1-18.5-2.
 23 (B) An amount equal to the following:
 24 (i) One percent (1%) of the total gross assessed value of
 25 property within the political subdivision on the last
 26 assessment date, if that total gross assessed value is more
 27 than one hundred million dollars (\$100,000,000).
 28 (ii) One million dollars (\$1,000,000), if the total gross
 29 assessed value of property within the political subdivision
 30 on the last assessment date is not more than one hundred
 31 million dollars (\$100,000,000).
 32 (3) A project that is being refinanced for the purpose of providing
 33 gross or net present value savings to taxpayers.
 34 (4) A project for which bonds were issued or leases were entered
 35 into before January 1, 1996, or where the state board of tax
 36 commissioners has approved the issuance of bonds or the
 37 execution of leases before January 1, 1996.
 38 (5) A project that is required by a court order holding that a
 39 federal law mandates the project.
 40 (6) A project that is in response to:
 41 (A) a natural disaster;
 42 (B) an accident; or



- 1 (C) an emergency;
 2 in the political subdivision that makes a building or facility
 3 unavailable for its intended use.
 4 (7) A project that was not a controlled project under this section
 5 as in effect on June 30, 2008, and for which:
 6 (A) the bonds or lease for the project were issued or entered
 7 into before July 1, 2008; or
 8 (B) the issuance of the bonds or the execution of the lease for
 9 the project was approved by the department of local
 10 government finance before July 1, 2008.
 11 (8) A project of the Little Calumet River basin development
 12 commission for which bonds are payable from special
 13 assessments collected under IC 14-13-2-18.6.
 14 **(9) A project for capital improvements that comprise:**
 15 **(A) a sanitary sewer system or wastewater treatment**
 16 **facility;**
 17 **(B) a building and appurtenances;**
 18 **(C) a park or recreational facility;**
 19 **(D) a road, street, highway, or bridge; or**
 20 **(E) a water treatment, water storage, or water distribution**
 21 **facility.**
 22 **(10) A project for construction of a data center.**
 23 SECTION 2. IC 6-1.1-20-3.5, AS AMENDED BY P.L.246-2017,
 24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2019]: Sec. 3.5. (a) This section applies only to a controlled
 26 project that meets the following conditions:
 27 (1) The controlled project is described in one (1) of the following
 28 categories:
 29 (A) An elementary school building, middle school building,
 30 high school building, or other school building for academic
 31 instruction that will be used for any combination of
 32 kindergarten through grade 12 and will cost more than the
 33 lesser of the following:
 34 (i) The threshold amount determined under this item. In the
 35 case of an ordinance or resolution adopted before January 1,
 36 2018, making a preliminary determination to issue bonds or
 37 enter into a lease for the project, the threshold amount is ten
 38 million dollars (\$10,000,000). In the case of an ordinance or
 39 resolution adopted after December 31, 2017, and before
 40 January 1, 2019, making a preliminary determination to
 41 issue bonds or enter into a lease for the project, the threshold
 42 amount is fifteen million dollars (\$15,000,000). In the case



1 of an ordinance or resolution adopted in a calendar year after
2 December 31, 2018, making a preliminary determination to
3 issue bonds or enter into a lease for the project, the threshold
4 amount is an amount (as determined by the department of
5 local government finance) equal to the result of the assessed
6 value growth quotient determined under IC 6-1.1-18.5-2 for
7 the year multiplied by the threshold amount determined
8 under this item for the preceding calendar year. In the case
9 of a threshold amount determined under this item that
10 applies for a calendar year after December 31, 2018, the
11 department of local government finance shall publish the
12 threshold in the Indiana Register under IC 4-22-7-7 not more
13 than sixty (60) days after the date the budget agency releases
14 the assessed value growth quotient for the ensuing year
15 under IC 6-1.1-18.5-2.

16 (ii) An amount equal to one percent (1%) of the total gross
17 assessed value of property within the political subdivision
18 on the last assessment date, if that total gross assessed value
19 is more than one billion dollars (\$1,000,000,000), or ten
20 million dollars (\$10,000,000), if the total gross assessed
21 value of property within the political subdivision on the last
22 assessment date is not more than one billion dollars
23 (\$1,000,000,000).

24 (B) Any other controlled project that is not a controlled project
25 described in clause (A) and will cost the political subdivision
26 more than the lesser of the following:

27 (i) The threshold amount determined under this item. In the
28 case of an ordinance or resolution adopted before January 1,
29 2018, making a preliminary determination to issue bonds or
30 enter into a lease for the project, the threshold amount is
31 twelve million dollars (\$12,000,000). In the case of an
32 ordinance or resolution adopted after December 31, 2017,
33 and before January 1, 2019, making a preliminary
34 determination to issue bonds or enter into a lease for the
35 project, the threshold amount is fifteen million dollars
36 (\$15,000,000). In the case of an ordinance or resolution
37 adopted in a calendar year after December 31, 2018, making
38 a preliminary determination to issue bonds or enter into a
39 lease for the project, the threshold amount is an amount (as
40 determined by the department of local government finance)
41 equal to the result of the assessed value growth quotient
42 determined under IC 6-1.1-18.5-2 for the year multiplied by



1 the threshold amount determined under this item for the
 2 preceding calendar year. In the case of a threshold amount
 3 determined under this item that applies for a calendar year
 4 after December 31, 2018, the department of local
 5 government finance shall publish the threshold in the
 6 Indiana Register under IC 4-22-7-7 not more than sixty (60)
 7 days after the date the budget agency releases the assessed
 8 value growth quotient for the ensuing year under
 9 IC 6-1.1-18.5-2.

10 (ii) An amount equal to one percent (1%) of the total gross
 11 assessed value of property within the political subdivision
 12 on the last assessment date, if that total gross assessed value
 13 is more than one hundred million dollars (\$100,000,000), or
 14 one million dollars (\$1,000,000), if the total gross assessed
 15 value of property within the political subdivision on the last
 16 assessment date is not more than one hundred million
 17 dollars (\$100,000,000).

18 (C) Any other controlled project for which a political
 19 subdivision adopts an ordinance or resolution making a
 20 preliminary determination to issue bonds or enter into a lease
 21 for the project, if the sum of:

22 (i) the cost of that controlled project; plus

23 (ii) the costs of all other controlled projects for which the
 24 political subdivision has previously adopted within the
 25 preceding three hundred sixty-five (365) days an ordinance
 26 or resolution making a preliminary determination to issue
 27 bonds or enter into a lease for those other controlled
 28 projects;

29 exceeds ~~twenty-five~~ **fifty** million dollars ~~(\$25,000,000);~~
 30 **(\$50,000,000).**

31 (2) The proper officers of the political subdivision make a
 32 preliminary determination after June 30, 2008, in the manner
 33 described in subsection (b) to issue bonds or enter into a lease for
 34 the controlled project.

35 (b) A political subdivision may not impose property taxes to pay
 36 debt service on bonds or lease rentals on a lease for a controlled project
 37 without completing the following procedures:

38 (1) The proper officers of a political subdivision shall publish
 39 notice in accordance with IC 5-3-1 and send notice by first class
 40 mail to the circuit court clerk and to any organization that delivers
 41 to the officers, before January 1 of that year, an annual written
 42 request for notices of any meeting to consider the adoption of an



1 ordinance or a resolution making a preliminary determination to
 2 issue bonds or enter into a lease and shall conduct at least two (2)
 3 public hearings on the preliminary determination before adoption
 4 of the ordinance or resolution. The political subdivision must at
 5 each of the public hearings on the preliminary determination
 6 allow the public to testify regarding the preliminary determination
 7 and must make the following information available to the public
 8 at each of the public hearings on the preliminary determination,
 9 in addition to any other information required by law:

10 (A) The result of the political subdivision's current and
 11 projected annual debt service payments divided by the net
 12 assessed value of taxable property within the political
 13 subdivision.

14 (B) The result of:

15 (i) the sum of the political subdivision's outstanding long
 16 term debt plus the outstanding long term debt of other taxing
 17 units that include any of the territory of the political
 18 subdivision; divided by

19 (ii) the net assessed value of taxable property within the
 20 political subdivision.

21 (C) The information specified in subdivision (3)(A) through
 22 (3)(G).

23 (2) If the proper officers of a political subdivision make a
 24 preliminary determination to issue bonds or enter into a lease, the
 25 officers shall give notice of the preliminary determination by:

26 (A) publication in accordance with IC 5-3-1; and

27 (B) first class mail to the circuit court clerk and to the
 28 organizations described in subdivision (1).

29 (3) A notice under subdivision (2) of the preliminary
 30 determination of the political subdivision to issue bonds or enter
 31 into a lease must include the following information:

32 (A) The maximum term of the bonds or lease.

33 (B) The maximum principal amount of the bonds or the
 34 maximum lease rental for the lease.

35 (C) The estimated interest rates that will be paid and the total
 36 interest costs associated with the bonds or lease.

37 (D) The purpose of the bonds or lease.

38 (E) A statement that the proposed debt service or lease
 39 payments must be approved in an election on a local public
 40 question held under section 3.6 of this chapter.

41 (F) With respect to bonds issued or a lease entered into to
 42 open:



- 1 (i) a new school facility; or
 2 (ii) an existing facility that has not been used for at least
 3 three (3) years and that is being reopened to provide
 4 additional classroom space;
 5 the estimated costs the school corporation expects to annually
 6 incur to operate the facility.
 7 (G) The following information:
 8 (i) The political subdivision's current debt service levy and
 9 rate.
 10 (ii) The estimated increase to the political subdivision's debt
 11 service levy and rate that will result if the political
 12 subdivision issues the bonds or enters into the lease.
 13 (iii) The estimated amount of the political subdivision's debt
 14 service levy and rate that will result during the following ten
 15 (10) years if the political subdivision issues the bonds or
 16 enters into the lease, after also considering any changes that
 17 will occur to the debt service levy and rate during that
 18 period on account of any outstanding bonds or lease
 19 obligations that will mature or terminate during that period.
 20 (H) The information specified in subdivision (1)(A) through
 21 (1)(B).
 22 (4) After notice is given, a petition requesting the application of
 23 the local public question process under section 3.6 of this chapter
 24 may be filed by the lesser of:
 25 (A) five hundred (500) persons who are either owners of
 26 property within the political subdivision or registered voters
 27 residing within the political subdivision; or
 28 (B) five percent (5%) of the registered voters residing within
 29 the political subdivision.
 30 (5) The state board of accounts shall design and, upon request by
 31 the county voter registration office, deliver to the county voter
 32 registration office or the county voter registration office's
 33 designated printer the petition forms to be used solely in the
 34 petition process described in this section. The county voter
 35 registration office shall issue to an owner or owners of property
 36 within the political subdivision or a registered voter residing
 37 within the political subdivision the number of petition forms
 38 requested by the owner or owners or the registered voter. Each
 39 form must be accompanied by instructions detailing the
 40 requirements that:
 41 (A) the carrier and signers must be owners of property or
 42 registered voters;



- 1 (B) the carrier must be a signatory on at least one (1) petition;
 2 (C) after the signatures have been collected, the carrier must
 3 swear or affirm before a notary public that the carrier
 4 witnessed each signature; and
 5 (D) govern the closing date for the petition period.
- 6 Persons requesting forms may be required to identify themselves
 7 as owners of property or registered voters and may be allowed to
 8 pick up additional copies to distribute to other owners of property
 9 or registered voters. Each person signing a petition must indicate
 10 whether the person is signing the petition as a registered voter
 11 within the political subdivision or is signing the petition as the
 12 owner of property within the political subdivision. A person who
 13 signs a petition as a registered voter must indicate the address at
 14 which the person is registered to vote. A person who signs a
 15 petition as an owner of property must indicate the address of the
 16 property owned by the person in the political subdivision.
- 17 (6) Each petition must be verified under oath by at least one (1)
 18 qualified petitioner in a manner prescribed by the state board of
 19 accounts before the petition is filed with the county voter
 20 registration office under subdivision (7).
- 21 (7) Each petition must be filed with the county voter registration
 22 office not more than thirty (30) days after publication under
 23 subdivision (2) of the notice of the preliminary determination.
- 24 (8) The county voter registration office shall determine whether
 25 each person who signed the petition is a registered voter.
 26 However, after the county voter registration office has determined
 27 that at least five hundred twenty-five (525) persons who signed
 28 the petition are registered voters within the political subdivision,
 29 the county voter registration office is not required to verify
 30 whether the remaining persons who signed the petition are
 31 registered voters. If the county voter registration office does not
 32 determine that at least five hundred twenty-five (525) persons
 33 who signed the petition are registered voters, the county voter
 34 registration office, not more than fifteen (15) business days after
 35 receiving a petition, shall forward a copy of the petition to the
 36 county auditor. Not more than ten (10) business days after
 37 receiving the copy of the petition, the county auditor shall provide
 38 to the county voter registration office a statement verifying:
 39 (A) whether a person who signed the petition as a registered
 40 voter but is not a registered voter, as determined by the county
 41 voter registration office, is the owner of property in the
 42 political subdivision; and



1 (B) whether a person who signed the petition as an owner of
2 property within the political subdivision does in fact own
3 property within the political subdivision.

4 (9) The county voter registration office, not more than ten (10)
5 business days after determining that at least five hundred
6 twenty-five (525) persons who signed the petition are registered
7 voters or after receiving the statement from the county auditor
8 under subdivision (8), as applicable, shall make the final
9 determination of whether a sufficient number of persons have
10 signed the petition. Whenever the name of an individual who
11 signs a petition form as a registered voter contains a minor
12 variation from the name of the registered voter as set forth in the
13 records of the county voter registration office, the signature is
14 presumed to be valid, and there is a presumption that the
15 individual is entitled to sign the petition under this section. Except
16 as otherwise provided in this chapter, in determining whether an
17 individual is a registered voter, the county voter registration office
18 shall apply the requirements and procedures used under IC 3 to
19 determine whether a person is a registered voter for purposes of
20 voting in an election governed by IC 3. However, an individual is
21 not required to comply with the provisions concerning providing
22 proof of identification to be considered a registered voter for
23 purposes of this chapter. A person is entitled to sign a petition
24 only one (1) time in a particular referendum process under this
25 chapter, regardless of whether the person owns more than one (1)
26 parcel of real property, mobile home assessed as personal
27 property, or manufactured home assessed as personal property or
28 a combination of those types of property within the political
29 subdivision and regardless of whether the person is both a
30 registered voter in the political subdivision and the owner of
31 property within the political subdivision. Notwithstanding any
32 other provision of this section, if a petition is presented to the
33 county voter registration office within forty-five (45) days before
34 an election, the county voter registration office may defer acting
35 on the petition, and the time requirements under this section for
36 action by the county voter registration office do not begin to run
37 until five (5) days after the date of the election.

38 (10) The county voter registration office must file a certificate and
39 each petition with:

40 (A) the township trustee, if the political subdivision is a
41 township, who shall present the petition or petitions to the
42 township board; or



- 1 (B) the body that has the authority to authorize the issuance of
2 the bonds or the execution of a lease, if the political
3 subdivision is not a township;
4 within thirty-five (35) business days of the filing of the petition
5 requesting the referendum process. The certificate must state the
6 number of petitioners who are owners of property within the
7 political subdivision and the number of petitioners who are
8 registered voters residing within the political subdivision.
9 (11) If a sufficient petition requesting the local public question
10 process is not filed by owners of property or registered voters as
11 set forth in this section, the political subdivision may issue bonds
12 or enter into a lease by following the provisions of law relating to
13 the bonds to be issued or lease to be entered into.
14 (c) If the proper officers of a political subdivision make a
15 preliminary determination to issue bonds or enter into a lease, the
16 officers shall provide to the county auditor:
17 (1) a copy of the notice required by subsection (b)(2); and
18 (2) any other information the county auditor requires to fulfill the
19 county auditor's duties under section 3.6 of this chapter.

