

HOUSE BILL No. 1477

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-27.

Synopsis: Property tax referendum for local operating fund. Permits counties, cities, and towns to adopt a resolution to hold a referendum to impose a property tax levy for a referendum tax levy operating fund.

Effective: July 1, 2019.

Huston

January 15, 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. 1477

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 36-1-27 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]:
4 **Chapter 27. Referendum Property Tax Levy for Operating**
5 **Fund**
6 **Sec. 1. This chapter applies only to counties, cities, and towns**
7 **(referred to as a "unit" in this chapter).**
8 **Sec. 2. As used in this chapter, "fund" refers to the unit's**
9 **referendum tax levy operating fund.**
10 **Sec. 3. As used in this chapter, "referendum" refers to a**
11 **referendum held under this chapter.**
12 **Sec. 4. As used in this chapter, "referendum tax levy" refers to**
13 **the property tax levy imposed by a unit under this chapter.**
14 **Sec. 5. (a) A unit may impose a referendum tax levy for the**
15 **unit's referendum tax levy operating fund in the amount allowed**
16 **under this chapter.**
17 **(b) The voters in a referendum may not approve a referendum**



1 tax levy that is imposed for more than eight (8) years. However, a
2 levy may be reimposed or extended under this chapter.

3 Sec. 6. The governing body of a unit may adopt a resolution to
4 place a referendum on the ballot to impose a referendum tax levy
5 under this chapter. The governing body of the unit shall certify a
6 copy of the resolution adopted under this section as required by
7 section 8 of this chapter.

8 Sec. 7. (a) The governing body of a unit may adopt a resolution
9 to place a referendum on the ballot to extend a referendum tax levy
10 under this chapter. A resolution to extend a referendum tax levy
11 must be:

12 (1) adopted by the governing body of a unit; and

13 (2) approved in a referendum under this chapter;

14 before December 31 of the final calendar year in which the unit's
15 previously approved referendum levy tax was imposed under this
16 chapter. The governing body of the unit shall certify a copy of the
17 resolution adopted under this section as required by section 8 of
18 this chapter.

19 (b) The number of years for which a referendum tax levy may
20 be extended if the public question under this section is approved
21 may not exceed the number of years for which the expiring
22 referendum tax levy was imposed.

23 Sec. 8. The governing body of the unit shall certify a copy of a
24 resolution adopted under section 6 or 7 of this chapter to the
25 following:

26 (1) The department of local government finance, including the
27 language for the question required by section 11 of this
28 chapter. The department shall review the language for
29 compliance with section 11 of this chapter and either approve
30 or reject the language. The department shall send its decision
31 to the governing body of the unit not more than ten (10) days
32 after the resolution is submitted to the department.

33 (2) The county fiscal body of each county in which the unit is
34 located (for informational purposes only).

35 (3) If the language for the question is approved by the
36 department of local government finance, the governing body
37 of the unit shall certify a copy of the resolution, including the
38 language and the department's approval, to the circuit court
39 clerk of each county in which the unit is located.

40 Sec. 9. (a) If a referendum is approved by the voters in a unit
41 under this chapter in a calendar year, another referendum may not
42 be placed on the ballot in the unit under this chapter in the



1 following calendar year.

2 (b) In addition to the restriction specified in subsection (a), if a
3 unit imposes in a calendar year a referendum tax levy approved in
4 a referendum under this chapter, the unit may not simultaneously
5 impose in that calendar year more than one (1) additional
6 referendum tax levy approved in a subsequent referendum under
7 this chapter.

8 Sec. 10. A referendum tax levy under this chapter may be put
9 into effect only if a majority of the individuals who vote in a
10 referendum that is conducted in accordance with this chapter
11 approves the proposing unit making a referendum tax levy for the
12 ensuing calendar year.

13 Sec. 11. (a) This subsection applies only to a referendum on a
14 resolution certified to the department of local government finance
15 to initially impose a referendum tax levy and does not apply to a
16 referendum on a resolution certified to the department of local
17 government finance to extend a referendum tax levy. The question
18 to be submitted to the voters in such a referendum must read as
19 follows:

20 "For the __ (insert number) calendar year or years
21 immediately following the holding of the referendum, shall the
22 unit impose a property tax rate that does not exceed
23 _____ (insert amount) cents (\$0.__) (insert amount)
24 on each one hundred dollars (\$100) of assessed valuation and
25 that is in addition to all other property taxes imposed by the
26 unit for the purpose of funding _____
27 (insert short description of purposes)?".

28 (b) This subsection applies only to a referendum to allow a unit
29 to extend a referendum tax levy. The question to be submitted to
30 the voters in such a referendum must read as follows:

31 "For the __ (insert number) calendar year or years
32 immediately following the holding of the referendum, shall the
33 unit continue to impose a property tax rate that does not
34 exceed _____ (insert amount) cents (\$0.__) (insert
35 amount) on each one hundred dollars (\$100) of assessed
36 valuation and for the purpose of funding
37 _____ (insert short description of
38 purposes)?

39 The tax rate requested in this referendum was originally
40 approved by the voters in the _____ (insert name of the
41 unit) in _____ (insert the year in which the referendum tax
42 levy was approved).".



1 **Sec. 12.** Each circuit court clerk shall, upon receiving the
 2 question certified by the governing body of a unit under this
 3 chapter, call a meeting of the county election board to make
 4 arrangements for the referendum.

5 **Sec. 13. (a)** The referendum shall be held in the next primary
 6 election, general election, or municipal election in which all the
 7 registered voters who are residents of the proposing unit are
 8 entitled to vote after certification of the question under
 9 IC 3-10-9-3. The certification of the question must occur not later
 10 than noon:

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

14 (2) August 1 if the question is to be placed on the general or
 15 municipal election ballot.

16 **(b)** However, if a primary election, general election, or
 17 municipal election will not be held during the first year in which
 18 the public question is eligible to be placed on the ballot under this
 19 chapter and if the proposing unit requests the public question to be
 20 placed on the ballot at a special election, the public question shall
 21 be placed on the ballot at a special election to be held on the first
 22 Tuesday after the first Monday in May or November of the year.
 23 The certification must occur not later than noon:

24 (1) sixty (60) days before a special election to be held in May
 25 (if the special election is to be held in May); or

26 (2) on August 1 (if the special election is to be held in
 27 November).

28 **(c)** If the referendum is not conducted at a primary election,
 29 general election, or municipal election, the proposing unit in which
 30 the referendum is to be held shall pay all the costs of holding the
 31 referendum.

32 **Sec. 14.** Each county election board shall cause:

33 (1) the question certified to the circuit court clerk by the
 34 governing body of a unit to be placed on the ballot in the form
 35 prescribed by IC 3-10-9-4; and

36 (2) an adequate supply of ballots and voting equipment to be
 37 delivered to the precinct election board of each precinct in
 38 which the referendum is to be held.

39 **Sec. 15.** The individuals entitled to vote in the referendum are
 40 all of the registered voters resident in the proposing unit.

41 **Sec. 16.** Each precinct election board shall count the affirmative
 42 votes and the negative votes cast in the referendum and shall



1 certify those two (2) totals to the county election board of each
 2 county in which the referendum is held. The circuit court clerk of
 3 each county shall, immediately after the votes cast in the
 4 referendum have been counted, certify the results of the
 5 referendum to the department of local government finance. If a
 6 majority of the individuals who voted in the referendum voted
 7 "yes" on the referendum question:

8 (1) the department of local government finance shall promptly
 9 notify the unit that the unit is authorized to collect, for the
 10 calendar year that next follows the calendar year in which the
 11 referendum is held, a referendum tax levy not greater than
 12 the amount approved in the referendum;

13 (2) the levy may be imposed for the number of calendar years
 14 approved by the voters following the referendum for the unit
 15 in which the referendum is held; and

16 (3) the unit shall establish a fund under section 17 of this
 17 chapter.

18 Sec. 17. (a) The governing body of a unit for which a
 19 referendum tax levy is approved under this chapter shall establish
 20 a referendum tax levy operating fund.

21 (b) Property tax collections from a referendum tax levy under
 22 this chapter shall be deposited in the fund.

23 (c) Money in the fund may be used for any lawful expenses of
 24 the unit.

25 Sec. 18. A unit's referendum tax levy may not be considered in
 26 the determination of any other property tax levy imposed by the
 27 unit.

28 Sec. 19. (a) The county auditor shall distribute proceeds
 29 collected from an allocation area (as defined in IC 6-1.1-21.2-3)
 30 that are attributable to property taxes imposed after being
 31 approved by the voters in a referendum to the taxing unit for
 32 which the referendum was conducted.

33 (b) The amount to be distributed under subsection (a) shall be
 34 treated as part of the referendum tax levy for purposes of setting
 35 tax rates for other property tax levies by the unit.

36 Sec. 20. (a) If a majority of the persons who voted in the
 37 referendum did not vote "yes" on the referendum question:

38 (1) the unit may not impose a referendum tax levy; and

39 (2) another referendum under this section may not be held
 40 earlier than:

41 (A) except as provided in clause (B), seven hundred (700)
 42 days after the date of the referendum; or



- 1 **(B) three hundred fifty (350) days after the date of the**
 2 **referendum, if a petition that meets the requirements of**
 3 **subsection (b) is submitted to the county auditor.**
- 4 **(b) If a majority of the persons who voted in the referendum did**
 5 **not vote "yes" on the referendum question, a petition may be**
 6 **submitted to the county auditor to request that the limit under**
 7 **subsection (a)(2)(B) apply to the holding of a subsequent**
 8 **referendum by the unit. If such a petition is submitted to the**
 9 **county auditor and is signed by the lesser of:**
- 10 **(1) five hundred (500) persons who are either owners of**
 11 **property within the unit or registered voters residing within**
 12 **the unit; or**
- 13 **(2) five percent (5%) of the registered voters residing within**
 14 **the unit;**
- 15 **the limit under subsection (a)(2)(B) applies to the holding of a**
 16 **second referendum by the unit, and the limit under subsection**
 17 **(a)(2)(A) does not apply to the holding of a second referendum by**
 18 **the unit.**
- 19 **Sec. 21. (a) Except as otherwise provided in this section, during**
 20 **the period beginning with the adoption of a resolution by the**
 21 **governing body of a unit to place a referendum under this chapter**
 22 **on the ballot and continuing through the day on which the**
 23 **referendum is submitted to the voters, the unit may not promote a**
 24 **position on the referendum by doing any of the following:**
- 25 **(1) Using facilities or equipment, including mail and**
 26 **messaging systems, owned by the unit to promote a position**
 27 **on the referendum, unless equal access to the facilities or**
 28 **equipment is given to persons with a position opposite to that**
 29 **of the unit.**
- 30 **(2) Making an expenditure of money from a fund controlled**
 31 **by the unit to promote a position on the referendum.**
- 32 **(3) Using an employee to promote a position on the**
 33 **referendum during the employee's normal working hours or**
 34 **paid overtime, or otherwise compelling an employee to**
 35 **promote a position on the referendum at any time. However,**
 36 **if a person described in subsection (c) is advocating for or**
 37 **against a position on the referendum or discussing the**
 38 **referendum as authorized under subsection (c), an employee**
 39 **of the unit may assist the person in presenting information on**
 40 **the referendum, if requested to do so by the person described**
 41 **in subsection (c).**
- 42 **However, this section does not prohibit an official or employee of**



1 the unit from carrying out duties with respect to a referendum that
2 are part of the normal and regular conduct of the official's or
3 employee's office or agency, including the furnishing of factual
4 information regarding the referendum in response to inquiries
5 from any person.

6 (b) This subsection does not apply to:

7 (1) a personal expenditure to promote a position on a
8 referendum by an employee of a unit whose employment is
9 governed by a collective bargaining contract or an
10 employment contract; or

11 (2) an expenditure to promote a position on a referendum by
12 a person or an organization that has a contract or an
13 arrangement (whether formal or informal) with the unit
14 solely for the use of the unit's facilities.

15 A person or an organization that has a contract or arrangement
16 (whether formal or informal) with a unit to provide goods or
17 services to the unit may not spend any money to promote a position
18 on the referendum. A person or an organization that violates this
19 subsection commits a Class A infraction.

20 (c) An elected official of a unit may at any time:

21 (1) personally advocate for or against a position on a
22 referendum; or

23 (2) discuss the referendum with any individual, group, or
24 organization or personally advocate for or against a position
25 on a referendum before any individual, group, or
26 organization;

27 so long as it is not done by using public funds. Advocacy or
28 discussion allowed under this subsection is not considered a use of
29 public funds.

