
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions
FROM: Daniel Shackle, Commissioner
RE: Legislation Affecting Local Budgeting Matters
DATE: June 18, 2024

The Department of Local Government Finance (“Department”) issues this memorandum to inform the public of legislative changes concerning local budgeting matters. This legislation includes the following:

- House Enrolled Act 1120-2024 (“HEA 1120”), signed by Governor Eric J. Holcomb on March 13, 2024.
- House Enrolled Act 1328-2024 (“HEA 1328”), signed into law by Governor Holcomb on March 13, 2024.

Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law. Except as otherwise stated, all provisions are effective July 1, 2024.

I. Controlled Projects

HEA 1120 makes the following changes regarding controlled projects.

A. Total Debt Service Tax Rate as Basis for Taxpayer Control

First, Sections 22 through 24 extend the period by which a project is subject to either a petition and remonstrance *or* a referendum based on the unit’s total debt service tax rate through December 31, 2025. These sections also clarify that the total debt service tax rate does not include a tax rate imposed in a referendum debt service tax levy approved by voters.

These sections are retroactively effective on January 1, 2024.

B. Change in Scope of Project

Second, Sections 23, 24, 26, and 27 provide that a project is subject to a petition and remonstrance *or* a referendum, as applicable, if the scope of the project changes from what was initially advertised to taxpayers.

Sections 26 and 27 add Ind. Code § 6-1.1-20-4.2 and 4.3 as new sections, effective upon passage. These new sections apply only if, with respect to a particular controlled project that went through either a petition and remonstrance or a referendum, the political subdivision subsequently changes the scope of the controlled project from what was initially advertised to taxpayers.

At least ten (10) persons who are either owners of property within the political subdivision or registered voters residing within the political subdivision, may file a petition with the proper officers of the political subdivision. The petition must be filed not later than one (1) year after the final approval of the controlled project and must contend that the scope of a controlled project has changed from how it was initially presented. The proper officers of the political subdivision must hold a public hearing to determine whether any change in scope is significant enough to warrant either a new petition and remonstrance *or* referendum, as applicable.

If the proper officers of the political subdivision determine at the hearing that the scope of the controlled project has subsequently changed beyond what was initially presented, the political subdivision must complete the petition and remonstrance process (if the controlled project was initially approved through a petition and remonstrance) or a referendum (if the controlled project was initially approved through a referendum).

If a referendum is required, Ind. Code § 6-1.1-20-4.3(c)(2) prescribes the public question template to be used:

“On _____ (insert date) the voters approved a public question to increase property taxes paid to the _____ (insert the type of taxing unit) by homeowners and businesses. The political subdivision has determined that the scope of the project for which the public question was placed on the ballot has changed beyond that initially presented. To fund the increase in the scope of the project, the average property tax paid to the _____ (insert the type of taxing unit) per year on a residence is estimated to increase by _____% (insert the estimated average percentage of property tax increase paid to the political subdivision on a residence within the political subdivision) and the average property tax paid to the _____ (insert the type of taxing unit) per year on a business property would increase by _____% (insert the estimated average percentage of property tax increase paid to the political subdivision on a business property within the political subdivision). Shall _____ (insert the name of the political subdivision) increase property taxes paid to the _____ (insert the type of taxing unit) by homeowners and businesses to fund the increase in the scope of the project previously approved? If this public question is approved by the voters, the average property tax paid to the _____ (insert the type of taxing unit) per year on a residence would increase by _____% (insert the estimated average percentage of property tax increase paid to the political subdivision on a residence within the political subdivision) and the average property tax paid to the _____ (insert the type of taxing unit) per year on a business property would increase by _____% (insert the estimated average percentage of property tax increase paid to the political subdivision on a business property within the political subdivision).”

A public question must be certified by the county election board to the Department. The Department must review the public question to determine whether it is accurate and not biased against either a vote in favor of or against the controlled project. The timeline for the final certification of the public question is the same as the timeline for a referendum under Ind. Code §§ 6-1.1-20-3.5 and 3.6, including the deadline of August 1 for the general election or seventy-four (74) days before the primary election.

If a majority of property owners or registered voters signed a remonstrance against the controlled project, the political subdivision may not proceed with the changed scope of the controlled project. In that case, the political subdivision may either:

- (1) proceed with the controlled project as it was initially presented; or
- (2) terminate the controlled project as it was initially presented and initiate procedures for the controlled project that change the scope.

If a majority of eligible voters voting on the public question vote in favor of the public question, the political subdivision may impose property taxes to fund the increase in the scope of the controlled project previously approved.

II. Amended CNAV Submissions

Section 12 of HEA 1328 amends Ind. Code § 6-1.1-17-1 to require that the county auditor submit an amended certified net assessed valuation (“CNAV”) to the Department must do so:

- (1) in the manner prescribed by the Department; and
- (2) by the later of
 - (a) September 1; or
 - (b) fifteen (15) days after the original CNAV submission is submitted to the Department.

III. Additional Appropriation Public Notices

Section 14 of HEA 1328 amends Ind. Code § 6-1.1-18-5 to provide that a political subdivision proposing an additional appropriation must hold a public hearing after submitting the following information on Gateway:

- (1) The amount of the additional appropriation.
- (2) The name of the affected fund.
- (3) The name and account number of the affected account.
- (4) The date, time, and place at which the political subdivision or appropriate fiscal body will hold a public hearing on the proposed additional appropriation.

The political subdivision must post the above information on Gateway at least fourteen (14) days prior to the public hearing. The Department shall make this information publicly available on Gateway at least ten (10) days prior to the public hearing. If the political subdivision has changes to the date, time, or place of the public hearing after the original posting, the political subdivision shall submit those changes as soon as possible. The posting on Gateway replaces the requirement

to publish a notice of public hearing in a newspaper in accordance with Ind. Code § 5-3-1-2. Additional information related to additional appropriation public notices will be provided in the future.

This section is effective on January 1, 2026.

IV. Excess Levy Appeals and Binding Units

Section 16 of HEA 1328 amends Ind. Code § 6-1.1-18.5-12 to provide that, before a civil taxing unit that is a binding unit submits an excess levy appeal to the Department, the civil taxing unit must receive approval from the appropriate fiscal body to submit the appeal. A civil taxing unit is a “binding unit” if its budget is subject to review by a fiscal body under:

- (1) Ind. Code § 6-1.1-17-20;
- (2) Ind. Code § 6-1.1-17-20.3; or
- (3) Ind. Code § 6-1.1-17-20.4.

In addition, a participating unit of a fire protection territory may not submit an excess levy appeal unless each participating unit of the fire protection territory has adopted a resolution approving the submission of the appeal. Per Ind. Code § 36-8-19-3, “participating unit” includes the provider unit.

Additionally, Section 29 of HEA 1328 amends Ind. Code § 20-46-8-3 to provide that a school corporation whose budget is subject to review by a fiscal body under Ind. Code § 6-1.1-17-20 may not submit a transportation appeal or bus replacement appeal unless the school corporation receives approval from the fiscal body to submit the appeal.

V. Referendum Ballot Question Certification Review Period

Sections 17, 28, and 30 of HEA 1328 amend Ind. Code §§ 6-1.1-20-3.6, 20-46-1-8, and 20-46-9-6 to clarify that the ten (10) day period that the Department has to review a submitted ballot question for purposes of a property tax referendum begins after the Department receives both the resolution (or certification, in the case of a controlled project referendum) to place the question on the ballot and the county auditor’s certification of the estimated average tax impact.

These sections are effective on July 1, 2024, therefore this change will first apply to any request to the Department for purposes of a ballot question on a property tax referendum submitted after June 30, 2024, for the November general election. The Department notes that the deadlines for certification of the ballot question under Ind. Code §§ 6-1.1-20-3.6(e), 20-46-1-14, and 20-46-9-14 have not changed. Therefore, civil taxing units and school corporations should consider this change when planning a property tax referendum and submitting the ballot question to the Department for certification.

Contact Information

Questions may be directed to David Marusarz, Deputy General Counsel, at dmarusarz@dlgf.in.gov.