

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** County Auditors, County Assessors, County Treasurers, County Clerks and School Business Officials

**FROM:** Timothy J. Rushenberg, Commissioner *TJR 8/7/09*

**SUBJECT:** Controlled Projects, Petition and Remonstrance and Referendum Process

**DATE:** August 7, 2009

## Purpose

This memorandum provides guidance on amendments to Indiana Code chapter 6-1.1-20 relating to controlled projects and procedures for petition and remonstrance and referenda. These amendments were enacted in Sections 142 through 149 of House Enrolled Act ("HEA") 1001(ss)-2009.

Among other things, the amendments:

- change the definition of "registered voter" and "eligible voter";
- lengthen the deadline for a petition to be presented to the county voter registration office to 45 days before an election and allow the office to defer action until after the election if petition is presented after the deadline;
- require a political subdivision to make certain information available to the public at a hearing on preliminary determination;
- change the wording of the ballot question;
- allow a political subdivision to withdraw a public question from the ballot;
- require a political subdivision to provide certain information regarding the public question to the Department of Local Government Finance ("Department") for posting on the Department's Web site; and
- allow a political subdivision to introduce a public question for a controlled project under certain circumstances.

### Change in definition of “registered voter” and “eligible voter”

In the case of a petition to initiate a petition and remonstrance process under IC 6-1.1-20-3.1, a registered voter is an individual who is registered to vote in the political subdivision on the date the county voter registration board determines (under section 3.1 (b)(8)) whether persons who signed the petition are registered voters. Formerly, the date for determining whether an individual was a registered voter was the date the officers of the political subdivision published notice of its preliminary determination.

*Example: If the county voter registration board on July 1, 2009, determines whether the persons who signed the petition to initiate the process are registered voters, the person is only considered a registered voter if he is registered to vote in the political subdivision on or before the same date – July 1, 2009, in this example.*

Similarly, in the case of a petition or a remonstrance under IC 6-1.1-20-3.2, a registered voter is an individual who is registered to vote in the political subdivision on the date the county voter registration board determines (under section 3.2(b)(5)) whether persons who signed the petition or remonstrance are registered voters. Formerly, the date for determining whether an individual was a registered voter was thirty days after the notice of the applicability of the petition and remonstrance process was published.

*Example: If the county voter registration board determines on September 30, 2009, whether persons who signed the petition or remonstrance are registered voters, the person is only considered a registered voter if he is registered to vote in the political subdivision on or before the same date – September 30, 2009, in this example.*

Finally, in the case of a petition under IC 6-1.1-20-3.5 (requesting the local public question process), a registered voter is an individual who is registered to vote in the political subdivision on the date the county voter registration board determines (under section 3.5(b)(8)) whether persons who signed the petition are registered.

*Example: If the county voter registration board determines on August 31, 2009, whether persons who signed the petition are registered voters, the person is only considered a registered voter if he is registered to vote in the political subdivision on or before the same date – August 31, 2009, in this example.*

Formerly, an individual was eligible to vote on the public question if he was registered to vote in the political subdivision thirty (30) days before the date of the election.

The law now says that an eligible voter is one who is eligible to vote in the political subdivision in which the public question will be held, as determined under Title 3 of the Indiana Code (“Elections”). Further, to be eligible to vote, the individual must reside within the boundaries of the political subdivision for which the public question is being considered.

### **Cut-off date is now 45 days before an election**

Formerly when a county voter registration board was presented with a petition to initiate a petition and remonstrance process under IC 6-1.1-20-3.1, within 35 days of an election, the board could defer acting on it until after the election. Now that time period is within 45 days before an election. Similarly, if the process has already been initiated and the county voter registration board receives the petitions and remonstrances within 45 days of an election, it may defer acting on them until after the election. Finally, if a county voter registration board receives a petition to initiate the referendum process within 45 days before an election, it may defer acting on the petition until after the election.

*Example: November 3, 2009 is Election Day. If a petition to initiate a petition and remonstrance process or referendum process is received by the county voter registration board after September 18, 2009, the county voter registration board may defer acting on the petition until after the election.*

### **Information made available to the public during preliminary determination hearing**

The political subdivision must make the following information available to the public at a hearing on the preliminary determination:

- The result of the political subdivision's current and projected annual debt service payments divided by the net assessed value of taxable property within the political subdivision.
- The result of:
  - i. the sum of the political subdivision's outstanding long term debt plus the outstanding long term debt of other taxing units that include any of the territory of the political subdivision; divided by
  - ii. the net assessed value of taxable property within the political subdivision.
- The maximum term of the bonds or lease.
- The maximum principal amount of the bonds or the maximum lease rental for the lease.
- The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
- The purpose of the bonds or lease.
- A statement that the proposed debt service or lease payments must be approved in an election on a local public question held under section 3.6 of this chapter.
- With respect to bonds issued or a lease entered into to open:

- i. a new school facility; or
- ii. an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to annually incur to operate the facility.

- The political subdivision’s current debt service levy and rate and the estimated increase to the political subdivision’s debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

**Changes to ballot and election process for public question**

The ballot process for public questions under IC 6-1.1-20-3.5 also has changed. Now ballots to vote on public questions must include only a “brief” description of the controlled project, the estimated cost of the project, and the estimate tax rate increase. The amendment reads as follows:

“Shall \_\_\_\_\_ (insert the name of the political subdivision) issue bonds or enter into a lease to finance \_\_\_\_\_ (insert a brief description of the controlled project), which is estimated to cost not more than \_\_\_\_\_ (insert the total cost of the project) and is estimated to increase the property tax rate for debt service by \_\_\_\_\_ (insert increase in tax rate as determined by the department of local government finance)?”

The county election board must approve the form of the public question on the ballot. If the political subdivision is located in more than one county, the county election board of each county shall jointly approve the form of the public question that will appear on the ballot in each county.

The county auditor shall certify the public question described in subsection (c) under IC 3-10-9-3 to the county election board of each county in which the political subdivision is located. The certification must occur not later than noon:

- (1) sixty (60) days before a primary election if the public question is to be placed on the primary or municipal primary election ballot; or
- (2) August 1 if the public question is to be placed on the general or municipal election ballot.

Unless the political subdivision withdraws the public question, the public question shall be placed on the ballot at the next primary election, general election, or municipal election in which all voters of the political subdivision are entitled to vote.

However, if no such elections will be held during the first year in which the public question is eligible to be placed on the ballot and if the political subdivision requests the public question to be placed on the ballot at a special election, the public question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year.

The certification must occur not later than noon sixty (60) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November). However, in 2009, a political subdivision may hold a special election under this section on any date scheduled for the special election if notice of the special election was given before July 1, 2009, to the election division of the secretary of state's office as provided in IC 3-10-8-4. The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the special election.

**Political subdivision may withdraw the public question from the ballot**

The legislative body (as defined in IC 36-1-2-9) of the political subdivision may adopt a resolution to withdraw a controlled project from consideration in a public question. If the legislative body provides a certified copy of the resolution to the county auditor and the county election board not later than forty-nine (49) days before the election at which the public question would be on the ballot, the public question on the controlled project shall not be placed on the ballot and the public question on the controlled project shall not be held, regardless of whether the county auditor has certified the public question to the county election board.

If the withdrawal of a public question requires the county election board to reprint ballots, the political subdivision withdrawing the public question shall pay the costs of reprinting the ballots. If a political subdivision withdraws a public question that would have been held at a special election and the county election board has printed the ballots before the legislative body of the political subdivision provides a certified copy of the withdrawal resolution to the county auditor and the county election board, the political subdivision withdrawing the public question shall pay the costs incurred by the county in printing the ballots.

If a public question on a controlled project is withdrawn, a public question on the same controlled project or a substantially similar controlled project may not be submitted to the voters earlier than one (1) year after the date the resolution withdrawing the public question is adopted.

*Example: The county auditor certifies the public question for a school corporation's controlled project to the county election board to be placed on the November 3, 2009 election ballot. The school board provides a certified copy of the resolution to the county auditor and the county election board on or before September 14, 2009, withdrawing the controlled project from consideration. The public question shall not be placed on the ballot and no election regarding that public question held. Due to the withdrawal of the question, the county election board has to reprint the ballots at the cost of the school corporation. The same or substantially similar controlled project cannot be submitted to the voters earlier than one year after the date the resolution withdrawing the project is adopted.*

**Political subdivision must provide Department  
certain information for posting on the Department's Web site**

If a public question regarding a controlled project is placed on the ballot to be voted on as a public question, the political subdivision shall submit to the Department, at least thirty (30) days

before the election, the following information regarding the proposed controlled project for posting on the Department's Internet Web site:

- (1) The cost per square foot of any buildings being constructed as part of the controlled project.
- (2) The effect that approval of the controlled project would have on the political subdivision's property tax rate.
- (3) The maximum term of the bonds or lease.
- (4) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
- (5) The purpose of the bonds or lease.
- (6) In the case of a controlled project proposed by a school corporation:
  - a. the current and proposed square footage of school building space per student;
  - b. enrollment patterns within the school corporation; and
  - c. the age and condition of the current school facilities.

**Political subdivision itself may put a controlled project on the ballot**

A political subdivision itself may introduce a public question on the ballot under two general circumstances without a taxpayer petition. The first circumstance is a project to which IC 6-1.1-20-3.5 applies. Generally speaking, a 6-1.1-20-3.5 controlled project is one of the following:

- (1) an elementary or middle school building (or a combination of the two) that will cost more than \$10,000,000;
- (2) a high school building that will cost more than \$20,000,000; or
- (3) any other controlled project that will cost a political subdivision more than \$12,000,000.

This is called a subsection (a)(1) project in reference to IC 6-1.1-20-3.7(a)(1).

The second circumstance is a project that would be subject to IC 6-1.1-20-3.5 but for application of 6-1.1-20-1.1(6). In other words, the project is a response to a natural disaster, accident, or emergency and but for that fact would meet the requirements for IC 6-1.1-20-3.5. This is called a subsection (a)(2) project in reference to IC 6-1.1-20-3.7(a)(2).

The process for the political subdivision to introduce a public question on a controlled project begins with the fiscal body of the political subdivision. It may adopt a resolution specifying that

the local public question process specified in IC 6-1.1-20-3.6 applies to the issuance of the bonds or the entering into the lease, notwithstanding that:

- (1) a sufficient petition requesting the application of the local public question process under IC 6-1.1-20-3.6 has not been filed as set forth in IC 6-1.1-20-3.5 [in the case of bonds or a lease described IC 6-1.1-20-3.7(a)(1)]; or
- (2) because of the application IC 6-1.1-20-1.1(6), the bonds or lease is not considered to be issued or entered into for a controlled project [in the case of bonds or a lease described in IC 6-1.1-20-3.7(a)(2)].

The deadline by which the fiscal body of the subdivision must adopt the resolution differs according to the type of project and according to whether taxpayers have attempted to initiate the process but failed to secure a sufficient number of signatures. There are three possibilities:

- (1) If the project is a subsection (a)(1) project and no taxpayer petition is timely filed, the fiscal body of the political subdivision must adopt the resolution not more than sixty (60) days after its publication of the preliminary determination to issue bonds or enter into a lease;

*Example: No taxpayers file timely petitions regarding an elementary school building project that will cost more than \$10,000,000. (Taxpayers have not more than 30 days after the publication of the preliminary determination to file a petition.) Therefore, the school board may adopt a resolution, within 60 days of the publication of the preliminary determination, to place the controlled project public question on the ballot.*

- (2) If the project is a subsection (a)(1) project and a taxpayer petition is filed but later found to have insufficient signatures, the fiscal body of the political subdivision must adopt the resolution not more than thirty (30) days after the county voter registration office makes the final determination that a sufficient number of persons have NOT signed the petition.

*Example: The county voter registration office does not determine that 125 persons who signed the petition regarding an elementary school building that will cost more than \$10,000,000 are registered voters (i.e. less than 125 persons signed the petition or less than 125 meet the definition of registered voter). Therefore, the school board may adopt a resolution, not more than 30 days after the county voter registration office makes this determination, to place the controlled project public question on the ballot.*

- (3) If the project is a subsection (a)(2) project, the fiscal body of the political subdivision must adopt the resolution not more than 30 days after publication of the notice of the preliminary determination to issue bonds or enter into the lease.

*Example: The notice of preliminary determination to issue bonds or enter into the lease to fund an elementary school building project in response to a natural disaster that will cost more than \$10,000,000 is published on August 1, 2009. The fiscal body may adopt a*

*resolution to place the controlled project public question on the ballot on or before August 31, 2009.*

The fiscal body shall certify the resolution to the county election board of each county in which the political subdivision is located, and the county election board shall place the public question on the ballot as provided by IC 6-1.1-20-3.6. Except to the extent provisions of IC 6-1.1-20-3.6 are inconsistent with IC 6-1.1-20-3.7, those provisions apply to questions placed on the ballot under IC 6-1.1-20-3.7.

### **Advocacy**

An elected or appointed official of a political subdivision may personally advocate for or against a position on the petition or remonstrance or a local public question so long as it is not done using public funds.

A student may use school equipment or facilities to report or editorialize about a local public question as part of news coverage of the referendum by student newspaper or broadcast.

### **Non-Code Provision**

Please note the following relevant non-Code provision, Section 481 of HEA 1001(ss)-2009:

Section 481 applies to a controlled project for which notice of a special election was given before July 1, 2009, to the election division of the office of the secretary of state as provided in IC 3-10-8-4. The definitions in IC 6-1.1-20 apply to Section 481.

Notwithstanding the form of the question required by IC 6-1.1-20-3.6, as amended by HEA 1001(ss)-2009, the following question shall be submitted to the voters at a special election for a controlled project:

“Shall \_\_\_\_\_ (insert the name of the political subdivision) issue bonds or enter into a lease to finance \_\_\_\_\_ (insert the name of the controlled project)?”

Section 481 expires January 1, 2010.

Basically, if a special election public question was submitted to the election division of the office of the secretary of state prior to July 1, 2009, the question shall be placed on the special election ballot using the language as determined before the amendments contained in HEA 1001(ss)-2009.

### **Contact Information**

Questions may be directed to Brian Bailey, General Counsel, at (317) 234-5720 or [bbailey@dlgf.in.gov](mailto:bbailey@dlgf.in.gov).

**Text of Indiana Code § 6-1.1-10-44**

SOURCE: IC 6-1.1-20-1.9; (09ss1)PD3027.63. --> SECTION 142. IC 6-1.1-20-1.9, AS AMENDED BY P.L.146-2008, SECTION 190, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.9. **(a)** As used in this chapter, "registered voter" means the following:

(1) In the case of a petition under section 3.1 of this chapter to initiate a petition and remonstrance process, an individual who is registered to vote in the political subdivision on the date the proper officers of the political subdivision publish notice under section 3.1(b)(2) of this chapter of a preliminary determination by the political subdivision to issue bonds or enter into a lease. **county voter registration board makes the determination under section 3.1(b)(8) of this chapter regarding whether persons who signed the petition are registered voters.**

(2) In the case of:

(A) a petition under section 3.2 of this chapter in favor of the proposed debt service or lease payments; or

(B) a remonstrance under section 3.2 of this chapter against the proposed debt service or lease payments;

an individual who is registered to vote in the political subdivision on the date that is thirty (30) days after the notice of the applicability of the petition and remonstrance process is published under section 3.2(b)(1) of this chapter. **the county voter registration board makes the determination under section 3.2(b)(5) of this chapter regarding whether persons who signed the petition or remonstrance are registered voters.**

**(3) In the case of a petition under section 3.5 of this chapter requesting the application of the local public question process under section 3.6 of this chapter concerning proposed debt service or lease payments, an individual who is registered to vote in the political subdivision on the date the county voter registration board makes the determination under section 3.5(b)(8) of this chapter regarding whether persons who signed the petition are registered**

**voters.**

**(3) (b) As used in this chapter,** in the case of a **an election on** a public question held under section 3.6 of this chapter, "**eligible voter**" means an individual who:

**(1) is registered to vote in the political subdivision on the date that is thirty (30) days before the date of eligible to vote in the election in the political subdivision in which the public question will be held, as determined under IC 3; and**

**(2) resides within the boundaries of the political subdivision for which the public question is being considered.**

SOURCE: IC 6-1.1-20-3.1; (09ss1)PD3027.64. --> SECTION 143. IC 6-1.1-20-3.1, AS AMENDED BY P.L.146-2008, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) This section applies only to the following:

(1) A controlled project (as defined in section 1.1 of this chapter as in effect June 30, 2008) for which the proper officers of a political subdivision make a preliminary determination in the manner described in subsection (b) before July 1, 2008.

(2) An elementary school building, middle school building, or other school building for academic instruction that:

(A) is a controlled project;

- (B) will be used for any combination of kindergarten through grade 8;
  - (C) will not be used for any combination of grade 9 through grade 12; and
  - (D) will not cost more than ten million dollars (\$10,000,000).
- (3) A high school building or other school building for academic instruction that:
- (A) is a controlled project;
  - (B) will be used for any combination of grade 9 through grade 12;
  - (C) will not be used for any combination of kindergarten through grade 8; and
  - (D) will not cost more than twenty million dollars (\$20,000,000).
- (4) Any other controlled project that:
- (A) is not a controlled project described in subdivision (1), (2), or (3); and
  - (B) will not cost the political subdivision more than the lesser of the following:
    - (i) Twelve million dollars (\$12,000,000).
    - (ii) An amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date, if that amount is at least one million dollars (\$1,000,000).
- (b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:
- (1) The proper officers of a political subdivision shall:
- (A) publish notice in accordance with IC 5-3-1; and
  - (B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;
    - of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.
- (2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease for a controlled project, the officers shall give notice of the preliminary determination by:
- (A) publication in accordance with IC 5-3-1; and
  - (B) first class mail to the organizations described in subdivision (1)(B).
- (3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease for a controlled project must include the following information:
- (A) The maximum term of the bonds or lease.
  - (B) The maximum principal amount of the bonds or the maximum lease rental for the lease.
  - (C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
  - (D) The purpose of the bonds or lease.
  - (E) A statement that any owners of real property within the political subdivision or registered voters residing within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.
  - (F) With respect to bonds issued or a lease entered into to open:
    - (i) a new school facility; or
    - (ii) an existing facility that has not been used for at least three (3) years and that is

being reopened to provide additional classroom space;  
the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal for a new facility adjustment (as defined in IC 20-45-1-16 before January 1, 2009) for an increased maximum permissible tuition support levy to pay the estimated costs described in clause (F).

(H) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of real property or

registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered

voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

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

(9) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (8) make the final determination of the number of petitioners that are registered voters in the political subdivision and, based on the statement provided by the county auditor, the number of petitioners that own real property within the political subdivision. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within ~~thirty-five (35)~~ **forty-five (45)** days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

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

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

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SOURCE: IC 6-1.1-20-3.2; (09ss1)PD3027.65. --> SECTION 144. IC 6-1.1-20-3.2, AS AMENDED BY P.L.146-2008, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 3.2. (a) This section applies only to controlled projects described in section 3.1(a) of this chapter.

(b) If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose

property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

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

(B) first class mail to the organizations described in section 3.1(b)(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of real property within the political subdivision or registered voters residing within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision. Each signature on a petition must be dated, and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county voter registration office under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition or remonstrance forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;

(D) govern the closing date for the petition and remonstrance period; and

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition or remonstrance must indicate whether the person is signing the petition or remonstrance as a registered voter within the political subdivision or is signing the petition or remonstrance as the owner of real property within the political subdivision. A person who signs a petition or remonstrance as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition or remonstrance as a real property owner must indicate the address of the real property owned by the person in the political subdivision. The county voter registration office may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given

under subdivision (1). The county voter registration office shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county voter registration office within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county voter registration office shall determine whether each person who signed the petition or remonstrance is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition or remonstrance forward a copy of the petition or remonstrance to the county auditor. Not more than ten (10) business days after receiving the copy of the petition or remonstrance, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition or remonstrance as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition or remonstrance as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(6) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (5) make the final determination of:

(A) the number of registered voters in the political subdivision that signed a petition and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a petition; and

(B) the number of registered voters in the political subdivision that signed a remonstrance and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a remonstrance.

Whenever the name of an individual who signs a petition or remonstrance as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition or remonstrance under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition or remonstrance only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition or remonstrance is presented to the county voter registration office within ~~thirty-five (35)~~ **forty-five (45)** days before an election, the county voter registration office may defer acting on the petition or remonstrance, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(7) The county voter registration office must file a certificate and the petition or

remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within thirty-five (35) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county voter registration office may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(8) If a greater number of persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county voter registration office's certificate under subdivision (7). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(9) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance if required by:

(A) IC 6-1.1-18.5-8; or

(B) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10.

SOURCE: IC 6-1.1-20-3.5; (09ss1)PD3027.66. --> SECTION 145. IC 6-1.1-20-3.5, AS ADDED BY P.L.146-2008, SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) This section applies only to a controlled project that meets the following conditions:

(1) The controlled project is described in one (1) of the following categories:

(A) An elementary school building, middle school building, or other school building for academic instruction that:

(i) will be used for any combination of kindergarten through grade 8;

(ii) will not be used for any combination of grade 9 through grade 12; and

(iii) will cost more than ten million dollars (\$10,000,000).

(B) A high school building or other school building for academic instruction that:

(i) will be used for any combination of grade 9 through grade 12;

(ii) will not be used for any combination of kindergarten through grade 8; and

(iii) will cost more than twenty million dollars (\$20,000,000).

(C) Any other controlled project that:

(i) is not a controlled project described in clause (A) or (B); and

(ii) will cost the political subdivision more than the lesser of twelve million dollars (\$12,000,000) or an amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date (if that amount is at least one

million dollars (\$1,000,000)).

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

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

(1) The proper officers of a political subdivision shall publish notice in accordance with IC 5-3-1 and send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for notices of any meeting to consider the adoption of an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on the preliminary determination before adoption of the ordinance or resolution. The political subdivision must make the following information available to the public at the public hearing on the preliminary determination, in addition to any other information required by law:

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

(B) The result of:

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

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

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

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

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

(B) first class mail to the organizations described in subdivision (1).

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

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

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

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

(D) The purpose of the bonds or lease.

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

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

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to annually incur to operate the facility.

(G) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

**(H) The information specified in subdivision (1)(A) through (1)(B).**

(4) After notice is given, a petition requesting the application of the local public question process under section 3.6 of this chapter may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote.

A person

who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. However, after the county voter registration office has determined that at least one hundred twenty-five (125) persons who signed the petition are registered voters within the political subdivision, the county voter registration office is not required to verify whether the remaining persons who signed the petition are registered voters. If the county voter registration office does not determine that at least one hundred twenty-five (125) persons who signed the petition are registered voters, the county voter registration office, not more than fifteen (15) business days after receiving a petition, shall forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

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

(9) The county voter registration office, not more than ten (10) business days after determining that at least one hundred twenty-five (125) persons who signed the petition are registered voters or after receiving the statement from the county auditor under subdivision (8) (as applicable), shall make the final determination of whether a sufficient number of persons have signed the petition. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular referendum process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the political subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within ~~thirty-five (35)~~ **forty-five (45)** days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

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

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

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting the referendum process. The certificate must state the number of petitioners who are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(11) If a sufficient petition requesting the local public question process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

(c) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall provide to the county auditor:

(1) a copy of the notice required by subsection (b)(2); and

(2) any other information the county auditor requires to fulfill the county auditor's duties under section 3.6 of this chapter.

SOURCE: IC 6-1.1-20-3.6; (09ss1)PD3027.67. --> SECTION 146. IC 6-1.1-20-3.6, AS ADDED BY P.L.146-2008, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 3.6. (a) **Except as provided in section 3.7 of this chapter**, this section applies only to a controlled project described in section 3.5(a) of this chapter.

(b) If a sufficient petition requesting the application of the local public question process has been filed as set forth in section 3.5 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project unless the political subdivision's proposed debt service or lease rental is approved in an election on a local public question held under this section.

(c) **Except as provided in subsection (j),** the following question shall be submitted to the eligible voters at the election conducted under this section:

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

**The public question must appear on the ballot in the form approved by the county election board. If the political subdivision proposing to issue bonds or enter into a lease is located in more than one (1) county, the county election board of each county shall jointly approve the form of the public question that will appear on the ballot in each county. The form approved by the county election board may differ from the language certified to the county election board by the county auditor.**

(d) The county auditor shall certify the public question described in subsection (c) under IC 3-10-9-3 to the county election board of each county in which the political subdivision is located. ~~After the public question is certified,~~ **The certification must occur not later than noon:**

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

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

**Subject to the certification requirements and deadlines under this subsection and except as provided in subsection (j),** the public question shall be placed on the ballot at the next primary election, general election, or municipal election in which all voters of the political subdivision are entitled to vote. However, if a primary election, general election, or municipal election will not be held in the six (6) month period after the county auditor certifies **during the first year in which the public question is eligible to be placed on the ballot under this section and if the political subdivision requests the public question to be placed on the ballot at a special election,** the public question shall be placed on the ballot at a special election to be held

**(1) not earlier than ninety (90) days; and**

**(2) not later than one hundred twenty (120) days;**

**after the public question is certified if the fiscal body of the political subdivision that wishes to issue the bonds or enter into the lease requests the public question to be voted on in a special election. However, in a year in which a general election or municipal election is held, the public question may be placed on the ballot at a special election only if the fiscal body of the political subdivision that requests the special election agrees to on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon sixty (60) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November). However, in 2009, a political subdivision may hold a special election under this section on any date scheduled for the special election if notice of the special election was given before July 1, 2009, to the election division of the secretary of state's office as provided in IC 3-10-8-4.**

**The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the special election. In a year in which a general election is not held and a municipal election is not held, the fiscal body of the political subdivision that requests the special election is not required to pay the costs of holding the special election.** The county election board shall give notice under IC 5-3-1 of a special election conducted under this subsection. A special election conducted under this subsection is under the direction of the county election board. The county election board shall take all steps necessary to carry out the special election.

(e) The circuit court clerk shall certify the results of the public question to the following:

- (1) The county auditor of each county in which the political subdivision is located.
- (2) The department of local government finance.

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

(g) If a majority of the **eligible** voters voting on the public question vote in opposition to the public question, both of the following apply:

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

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

(h) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

(i) A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter.

**(j) This subsection applies to a political subdivision for which a petition requesting a public question has been submitted under section 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of the political subdivision may adopt a resolution to withdraw a controlled project from consideration in a public question. If the legislative body provides a certified copy of the resolution to the county auditor and the county election board not later than forty-nine (49) days before the election at which the public question would be on the ballot, the public question on the controlled project shall not be placed on the ballot and the public question on the controlled project shall not be held, regardless of whether the county auditor has certified the public question to the county election board. If the withdrawal of a public question under this subsection requires the county election board to reprint ballots, the political subdivision withdrawing the public question shall pay the costs of reprinting the ballots. If a political subdivision withdraws a public question under this subsection that would have been held at a special election and the county election board has printed the ballots before the legislative body of the political subdivision provides a certified copy of the withdrawal resolution to the county auditor and the county election board, the political subdivision withdrawing the public question shall pay the costs incurred by the county in printing the ballots. If a public question on a controlled project is withdrawn under this subsection, a public question under this section on the same controlled project or a substantially similar controlled project may not be submitted to the voters earlier than one (1) year after the date the resolution withdrawing the public question is adopted.**

(k) If a public question regarding a controlled project is placed on the ballot to be voted on at a public question under this section, the political subdivision shall submit to the

department of local government finance, at least thirty (30) days before the election, the following information regarding the proposed controlled project for posting on the department's Internet web site:

- (1) The cost per square foot of any buildings being constructed as part of the controlled project.
- (2) The effect that approval of the controlled project would have on the political subdivision's property tax rate.
- (3) The maximum term of the bonds or lease.
- (4) The maximum principal amount of the bonds or the maximum lease rental for the lease.
- (5) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
- (6) The purpose of the bonds or lease.
- (7) In the case of a controlled project proposed by a school corporation:
  - (A) the current and proposed square footage of school building space per student;
  - (B) enrollment patterns within the school corporation; and
  - (C) the age and condition of the current school facilities.

SOURCE: IC 6-1.1-20-3.7; (09ss1)PD3027.68. --> SECTION 147. IC 6-1.1-20-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

- Sec. 3.7. (a) This section applies to the following:**
- (1) The issuance of bonds or the entering into a lease for a controlled project:
    - (A) to which section 3.5 of this chapter applies; and
    - (B) for which a sufficient petition requesting the application of the local public question process under section 3.6 of this chapter has not been filed as set forth in section 3.5 of this chapter within the time required under section 3.5(b)(7) of this chapter.
  - (2) The issuance of bonds or the entering into a lease for a capital project:
    - (A) that is not a controlled project to which section 3.5 of this chapter applies; and
    - (B) that would, but for the application of section 1.1(6) of this chapter to the project, be a controlled project to which section 3.5 of this chapter applies.
- (b) If the proper officers of a political subdivision make a preliminary determination to issue bonds described in subsection (a) or enter into a lease described in subsection (a), the fiscal body of the political subdivision may adopt a resolution specifying that the local public question process specified in section 3.6 of this chapter applies to the issuance of the bonds or the entering into the lease, notwithstanding that:
- (1) a sufficient petition requesting the application of the local public question process under section 3.6 of this chapter has not been filed as set forth in section 3.5 of this chapter (in the case of bonds or a lease described in subsection (a)(1)); or
  - (2) because of the application of section 1.1(6) of this chapter, the bonds or lease is not considered to be issued or entered into for a controlled project (in the case of bonds or a lease described in subsection (a)(2)).
- (c) The following apply to the adoption of a resolution by the fiscal body of a political subdivision under subsection (b):
- (1) In the case of bonds or a lease described in subsection (a)(1) and for which no petition requesting the application of the local public question process under section 3.6 of this chapter has been filed within the time required under section 3.5(b)(7) of this chapter,

**the fiscal body must adopt the resolution not more than sixty (60) days after publication of the notice of the preliminary determination to issue the bonds or enter into the lease.**

**(2) In the case of bonds or a lease described in subsection (a)(1) for which a petition requesting the application of the local public question process under section 3.6 of this chapter:**

**(A) has been filed under section 3.5 of this chapter; and**

**(B) is determined to have an insufficient number of signatures to require application of the local public question process under section 3.6 of this chapter;**

**the fiscal body must adopt the resolution not more than thirty (30) days after the county voter registration office makes the final determination under section 3.5 of this chapter that a sufficient number of persons have not signed the petition.**

**(3) In the case of bonds or a lease described in subsection (a)(2), the fiscal body must adopt the resolution not more than thirty (30) days after publication of the notice of the preliminary determination to issue the bonds or enter into the lease.**

**(4) The fiscal body shall certify the resolution to the county election board of each county in which the political subdivision is located, and the county election board shall place the public question on the ballot as provided in section 3.6 of this chapter.**

**(d) Except to the extent it is inconsistent with this section, section 3.6 of this chapter applies to a local public question placed on the ballot under this section.**

SOURCE: IC 6-1.1-20-10; (09ss1)PD3027.69. --> SECTION 148. IC 6-1.1-20-10, AS AMENDED BY P.L.146-2008, SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) This section applies to a political subdivision that adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease. During the period commencing with the adoption of the ordinance or resolution and, if a petition and remonstrance process is commenced under section 3.2 of this chapter, continuing through the sixty (60) day period commencing with the notice under section 3.2(b)(1) of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the petition or remonstrance by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the petition or remonstrance, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the petition or remonstrance or to pay for the gathering of signatures on a petition or remonstrance. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the petition or remonstrance during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the petition or remonstrance at any time.

(4) In the case of a school corporation, promoting a position on a petition or remonstrance by:

(A) using students to transport written materials to their residences or in any way directly

involving students in a school organized promotion of a position; or

(B) including a statement within another communication sent to the students' residences. However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a petition or remonstrance that are part of the normal and regular conduct of the employee's office or agency.

(b) A person may not solicit or collect signatures for a petition or remonstrance on property owned or controlled by the political subdivision.

(c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a petition or remonstrance.

(d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on the petition or remonstrance. A person or an organization that violates this subsection commits a Class A infraction.

(e) An attorney, an architect, registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project may not spend any money to promote a position on the petition or remonstrance. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services with respect to the controlled project.

**(f) An elected or appointed public official of the political subdivision may personally advocate**

**for or against a position on the petition or remonstrance so long as it is not done by using public funds.**

SOURCE: IC 6-1.1-20-10.1; (09ss1)PD3027.70. --> SECTION 149. IC 6-1.1-20-10.1, AS ADDED BY P.L.146-2008, SECTION 200, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10.1. (a) This section applies only to a political subdivision that, after June 30, 2008, adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease subject to sections 3.5 and 3.6 of this chapter.

(b) During the period beginning with the adoption of the ordinance or resolution and continuing through the day on which a local public question is submitted to the voters of the political subdivision under section 3.6 of this chapter, the political subdivision seeking to issue bonds or enter into a lease for the proposed controlled project may not promote a position on the local public question by doing any of the following:

(1) Allowing facilities or equipment, including mail and messaging systems, owned by the political subdivision to be used for public relations purposes to promote a position on the local public question, unless equal access to the facilities or equipment is given to persons with a position opposite to that of the political subdivision.

(2) Making an expenditure of money from a fund controlled by the political subdivision to promote a position on the local public question. This subdivision does not prohibit a political subdivision from making an expenditure of money to an attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project.

(3) Using an employee to promote a position on the local public question during the employee's normal working hours or paid overtime, or otherwise compelling an employee to promote a position on the local public question at any time.

(4) In the case of a school corporation, promoting a position on a local public question by:

(A) using students to transport written materials to their residences or in any way directly involving students in a school organized promotion of a position; or

(B) including a statement within another communication sent to the students' residences.

However, this section does not prohibit an employee of the political subdivision from carrying out duties with respect to a local public question that are part of the normal and regular conduct of the employee's office or agency.

(c) The staff and employees of a school corporation may not personally identify a student as the child of a parent or guardian who supports or opposes a controlled project subject to a local public question held under section 3.6 of this chapter.

(d) A person or an organization that has a contract or arrangement (whether formal or informal) with a school corporation for the use of any of the school corporation's facilities may not spend any money to promote a position on a local public question. A person or an organization that violates this subsection commits a Class A infraction.

(e) An attorney, an architect, a registered professional engineer, a construction manager, or a financial adviser for professional services provided with respect to a controlled project may not spend any money to promote a position on a local public question. A person who violates this subsection:

(1) commits a Class A infraction; and

(2) is barred from performing any services with respect to the controlled project.

**(f) An elected or appointed public official of the political subdivision may personally advocate**

**for or against a position on the local public question so long as it is not done by using public funds.**

**(g) A student may use school equipment or facilities to report or editorialize about a local public question as part of the news coverage of the referendum by student newspaper or broadcast.**