

IC 36-9-41

Chapter 41. Financing of Public Work Projects by Political Subdivisions

IC 36-9-41-1

Application

Sec. 1. This chapter applies to the following:

- (1) A public work project that will cost the political subdivision not more than two million dollars (\$2,000,000).
- (2) An eligible efficiency project that will cost not more than three million dollars (\$3,000,000).

As added by P.L.81-2004, SEC.47. Amended by P.L.88-2009, SEC.16.

IC 36-9-41-1.5

"Eligible efficiency project"

Sec. 1.5. As used in this chapter, "eligible efficiency project" means:

- (1) a project necessary or useful to carrying out an interlocal cooperation agreement entered into by two (2) or more political subdivisions or governmental entities under IC 36-1-7; or
- (2) a project necessary or useful to the consolidation of local government services.

As added by P.L.88-2009, SEC.17.

IC 36-9-41-2

"Public work"

Sec. 2. As used in this chapter, "public work" means a project for the construction of any public building, highway, street, alley, bridge, sewer, drain, or any other public facility that is paid for out of public funds.

As added by P.L.81-2004, SEC.47.

IC 36-9-41-3

Borrowing by political subdivision to finance public work project or eligible efficiency project; notice; constitutional debt limitation

Sec. 3. Notwithstanding any other statute, a political subdivision may borrow the money necessary to finance:

- (1) a public work project; or
- (2) an eligible efficiency project;

from a financial institution in Indiana by executing a negotiable note under section 4 of this chapter. The political subdivision shall provide notice of its determination to issue the note under IC 5-3-1. Money borrowed under this chapter is chargeable against the political subdivision's constitutional debt limitation.

As added by P.L.81-2004, SEC.47. Amended by P.L.88-2009, SEC.18.

IC 36-9-41-4

Terms of the note

Sec. 4. A political subdivision borrowing money under section 3 of this chapter shall execute and deliver to the financial institution the negotiable note of the political subdivision for the sum borrowed. The note must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding ten (10) years.

As added by P.L.81-2004, SEC.47. Amended by P.L.182-2009(ss), SEC.453.

IC 36-9-41-5

Payments

Sec. 5. (a) The first installment of principal and interest on a note executed under this chapter is due on the next January 1 or July 1 following the first tax collection for which it is possible for the political subdivision to levy a tax under subsection (b).

(b) The political subdivision shall appropriate an amount for and levy a tax each year sufficient to pay the political subdivision's obligation under the note according to its terms.

(c) An obligation of a political subdivision under a note executed under this chapter is a valid and binding obligation of the political subdivision, notwithstanding any tax limitation, debt limitation, bonding limitation, borrowing limitation, or other statute to the contrary.

As added by P.L.81-2004, SEC.47.

IC 36-9-41-6

Taxpayer objections

Sec. 6. If a political subdivision gives notice under section 3 of this chapter of its determination that money should be borrowed under this chapter, not less than ten (10) taxpayers in the political subdivision who disagree with the determination may file a petition in the office of the county auditor not more than thirty (30) days after notice of the determination is given. The petition must state the taxpayers' objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.

As added by P.L.81-2004, SEC.47.

IC 36-9-41-7

Department of local government finance proceedings

Sec. 7. (a) Upon receiving a petition under section 6 of this chapter, the county auditor shall immediately certify a copy of the petition, together with other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and other data, the department of local government finance shall fix a time and place for a hearing on the matter.

(b) The hearing shall be held not less than five (5) and not more than thirty (30) days after the department's receipt of the certified petition, and shall be held in the county where the petition arose.

(c) The department of local government finance shall give notice

of the hearing by letter to the political subdivision and to the first ten (10) taxpayer petitioners listed on the petition. A copy of the letter shall be sent to each of the first ten (10) taxpayer petitioners at the taxpayer's usual place of residence at least five (5) days before the date of the hearing. In addition, public notice shall be published at least five (5) days before the date of the hearing under IC 5-3-1.

(d) After the hearing under subsection (c), the department of local government shall issue a final determination concerning the petition.
As added by P.L.81-2004, SEC.47.

IC 36-9-41-8

Judicial review

Sec. 8. A:

- (1) taxpayer who signed a petition filed under section 6 of this chapter; or
- (2) political subdivision against which a petition is filed under section 6 of this chapter;

may petition the tax court established by IC 33-3-5-1 for judicial review of the final determination of the department of local government finance on the taxpayers' petition. The petition for judicial review must be filed in the tax court not more than forty-five (45) days after the date of the department's final determination.

As added by P.L.81-2004, SEC.47.