

## **IC 13-21-7**

### **Chapter 7. Financing: Waste Management District Bonds**

#### **IC 13-21-7-1**

##### **Special taxing districts**

Sec. 1. (a) A special taxing district is established in each solid waste management district established under IC 13-21-3 or IC 13-9.5-2 (before its repeal) for the purpose of providing persons within the district with solid waste management service.

(b) The special taxing district is coterminous with the territory of the district.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-2**

##### **Waste management district bonds; bidding requirements for facility**

Sec. 2. The board may issue waste management district bonds under this chapter for the payment of the cost of the facility. Before authorizing the waste management district bonds, the board may:

- (1) accept public bids for the facility; or
- (2) adopt a resolution approving a request for proposals under IC 13-21-6.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-3**

##### **Resolution to construct, modify, acquire, or maintain facility; public notice**

Sec. 3. (a) When:

- (1) plans and specifications have been prepared according to the public bidding requirements of IC 36-1-12; or
- (2) a resolution approving a request for proposals has been adopted by the board;

the board may adopt a resolution declaring that, upon investigation, the board has found it necessary for the public health and welfare, and of public utility and benefit, to construct, modify, or acquire, and maintain if constructed the facility and to acquire the property described for that purpose.

(b) The resolution shall be kept open to inspection by all persons interested in or affected by the acquisition of the property or the construction of the facility.

(c) Upon adoption of the resolution, the board shall give public notice of the adoption and the resolution's purpose. The notice must name a date not later than ten (10) days after the date of the last publication of the notice on which the board will do the following:

- (1) Receive or hear remonstrances from persons interested in or affected by the facility.
- (2) Determine the public utility and benefit of the facility.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-4**

##### **Hearing; remonstrance; final action**

Sec. 4. (a) At:

- (1) the time fixed for the hearing; or
- (2) any time before that;

any person owning real or personal property within the district may file a written remonstrance with the board.

(b) At the hearing, which may be adjourned as necessary, the board shall hear all persons interested in the proceedings and all remonstrances filed.

(c) After considering the remonstrances, the board shall:

- (1) take final action determining the public utility and benefit of the proposed proceedings; and
- (2) either:
  - (A) confirm;
  - (B) modify and confirm; or
  - (C) rescind;

the resolution.

(d) The final action of the board shall be recorded.

(e) The action of the board is final and conclusive upon all persons. However, any person who:

- (1) has remonstrated in writing; and
- (2) is aggrieved by the decision of the board;

may take an appeal as provided in section 5 of this chapter.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-5**

##### **Appeals**

Sec. 5. (a) If the board takes final action confirming the resolution in an original or modified form, a person who has filed a written remonstrance with the board as provided in section 4 of this chapter may appeal to the circuit or superior court of the county in which the person resides.

(b) Within ten (10) days after the final action of the board, the remonstrator must file in the office of the clerk of the court the following:

- (1) A copy of the resolution of the board.
- (2) The remonstrance.
- (3) A surety bond conditioned to pay the costs of the appeal if the appeal is determined against the remonstrator.

(c) The only ground of remonstrance of which the court has jurisdiction on appeal is the question of whether it will be of public utility and benefit to construct, modify, or acquire the proposed facility. The burden of proof is upon the remonstrator. The cause shall be summarily tried by the court without a jury.

(d) The court shall do the following:

- (1) Consolidate and hear all remonstrances upon which an appeal are taken as one (1) cause of action.
- (2) Hear and determine the cause within thirty (30) days after

the time of filing the appeal.

(3) Upon the date fixed for hearing:

(A) hear evidence upon the remonstrances; and

(B) confirm the final action of the board on the resolution or sustain the remonstrance.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-6**

##### **Certified copy of resolution and approval to controller**

Sec. 6. On adopting a resolution ordering the issuance of waste management district bonds, the board shall certify a copy of:

(1) the resolution; and

(2) the approval;

to the controller of the district, who shall prepare the bonds.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-7**

##### **Waste management district bonds not corporate obligation or unit indebtedness**

Sec. 7. (a) The waste management district bonds:

(1) are special obligations of the district; and

(2) are not, in any respect, a corporate obligation or indebtedness of the units that comprise the district.

(b) The waste management district bonds issued under this chapter or IC 13-9.5-9-3 (before its repeal) and the interest on the bonds are payable out of a special tax levied upon all of the property of the district and any other revenues made available for that purpose under this article. The waste management district bonds must recite these terms on the face of the bonds together with the purpose for which the bonds are issued.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-8**

##### **Proceeds from sale of bonds; use of funds**

Sec. 8. All proceeds from the sale of waste management district bonds shall be kept as a separate and specific fund to pay the cost of the facility, and none of the proceeds may be used for any other purpose, except as provided in IC 5-1-13 and IC 5-1-14. However, money derived from sources other than the waste management district bond proceeds, such as state or federal grants or other contributions, are not restricted as to application even if the contribution arises for a project financed from waste management district bond proceeds.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-9**

##### **Special tax on real property**

Sec. 9. (a) For the purpose of raising money to pay waste management district bonds issued under this chapter or IC 13-9.5-9-3

(before its repeal), the board shall levy each year a special tax upon all the real property of the district in the amount and the manner necessary to meet and pay the following:

- (1) The principal of the waste management district bonds as the bonds severally mature.
- (2) All accruing interest on the bonds.

(b) The tax constitutes the amount of benefits resulting to all of the property in the district.

*As added by P.L.1-1996, SEC.11.*

### **IC 13-21-7-10**

#### **Certification of tax levy; distribution of tax**

Sec. 10. (a) The tax levied each year shall be certified to the following:

- (1) The controller of the district.
- (2) The county auditor of each county within the district.

(b) The:

- (1) county auditor shall estimate and enter the tax levied and certified upon the tax duplicate; and
- (2) county treasurer shall collect and enforce the tax;

in the same manner as county taxes are estimated, entered, collected, and enforced.

(c) As the county treasurer collects the tax, the tax shall be:

- (1) transferred to the controller of the district;
- (2) kept in a separate fund to be known as the waste management district bond fund; and
- (3) applied to the payment of the principal of and interest on the waste management district bonds as the bonds become due and to no other purpose, except as provided in IC 5-1-13 and IC 5-1-14.

*As added by P.L.1-1996, SEC.11.*

### **IC 13-21-7-11**

#### **Factors to consider in determining amount of tax levy**

Sec. 11. (a) In fixing the amount of the necessary levy, the board shall consider:

- (1) the amount of net revenues, if any, to be derived from the collection of fees under this article; or
- (2) any other net revenues collected under the following:
  - (A) IC 13-21-3-13.
  - (B) This chapter.
  - (C) IC 13-21-8 through IC 13-21-12.
  - (D) IC 13-21-14.

(b) Instead of making the levy or to reduce the amount of the levy, the board shall annually set aside by resolution the amount of the net revenues to be collected before maturity of the principal and interest of the waste management district bonds payable in the following year.

(c) If the board adopts this resolution under subsection (b), the

board may not use any part of the amount set aside out of the net revenues for any purpose other than the payment of waste management district bonds and the interest on the bonds. A proportionate payment of this amount shall be made monthly to the fund.

*As added by P.L.1-1996, SEC.11.*

#### **IC 13-21-7-12**

##### **Issuance of waste management district bonds under certain circumstances**

Sec. 12. (a) The district may not issue waste management district bonds under this chapter that are payable by special taxation or fees under IC 13-21-14 in a total amount, including outstanding bonds already issued, exceeding six percent (6%) of the adjusted value of taxable property in the district as determined under IC 36-1-15.

(b) All waste management district bonds issued in violation of this section or IC 13-9.5-9-3(k) (before its repeal) are void.

*As added by P.L.1-1996, SEC.11. Amended by P.L.6-1997, SEC.157.*