



2008 Legislative Wrap-Up HEA 1001



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Property Tax Reforms

Planning Budget Cuts

Providing Vital Public Services with Less

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HEA 1001 Legislative Wrap-Up



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HEA 1001 Property Tax Caps



What is the property tax cap (aka: circuit breaker)?

- Property tax cap based upon gross assessed value
- A taxpayer's **NET** tax liability cannot exceed a certain percent of the **GROSS** assessed value of the property
- Capped percentage depends upon the property's classification – homestead, residential, real and personal (commercial & industrial) properties

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HEA 1001 Property Tax Caps



Phased in property tax cap [Sections 221 and 222]

	2009	2010
• Residential homesteads	1.5%	1.0%
• Agricultural, long-term care non-homestead residential,	2.5%	2.0%
• All other real and personal property	3.5%	3.0%

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HEA 1001 Property Tax Caps



Phased in property tax cap

- LSA estimates revenue loss at \$524 million
- Requires debt service to be funded first [Section 226] revenue losses will be borne by operating funds
- Referendum approved debt is outside circuit breaker
- Shortfalls **cannot** be made up by setting higher tax rates or by borrowing
- Impact depends on the mix of properties in a taxing district, assessed value and tax rate

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HEA 1001 Controlled Projects



- HEA 1001 sets a new threshold for projects to fall under the “Controlled Project” definition

Current Law:

- A project meets the **Controlled Project** definition if:
 - The project is financed by bonds or leases
 - The project is payable by property taxes
 - The project costs more than \$2 Million

HEA 1001: [Sections 188 and 189]

- A project meets the **Controlled Project** definition if:
 - The project is financed by bonds or leases
 - The project is payable by property taxes
 - The project costs the lesser of:
 - \$2 Million; or
 - Greater of:
 - 1% of gross value; or
 - \$1 Million

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Controlled Projects



Current Law:

- Controlled projects subject to petition/remonstrance
- Must be approved by a DLGF order after a hearing before the DLGF Local Government Control Board

HEA 1001:

- Controlled projects are still subject to petition/remonstrance
- After June 30, 2008, no DLGF approval is required for controlled projects [Section 197]
- Controlled projects meeting the referenda threshold are subject to the referenda process [Section 193]

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Controlled Projects



Exceptions from the Controlled Project requirements:

- Exceptions under existing law remain: [Section 188]
 - When property taxes are only used as a back-up
 - A project that is being refinanced in order to result in a savings to the taxpayer
 - A project required by a court order holding that a federal law mandates the project
- New exception for projects that are in response to a natural disaster, emergency or accident when approved by the county council
- Exceptions for projects that were not controlled projects prior to July 1, 2008 and
 - have been approved by the DLGF; or
 - have issued bonds or entered into a lease prior to July 1, 2008

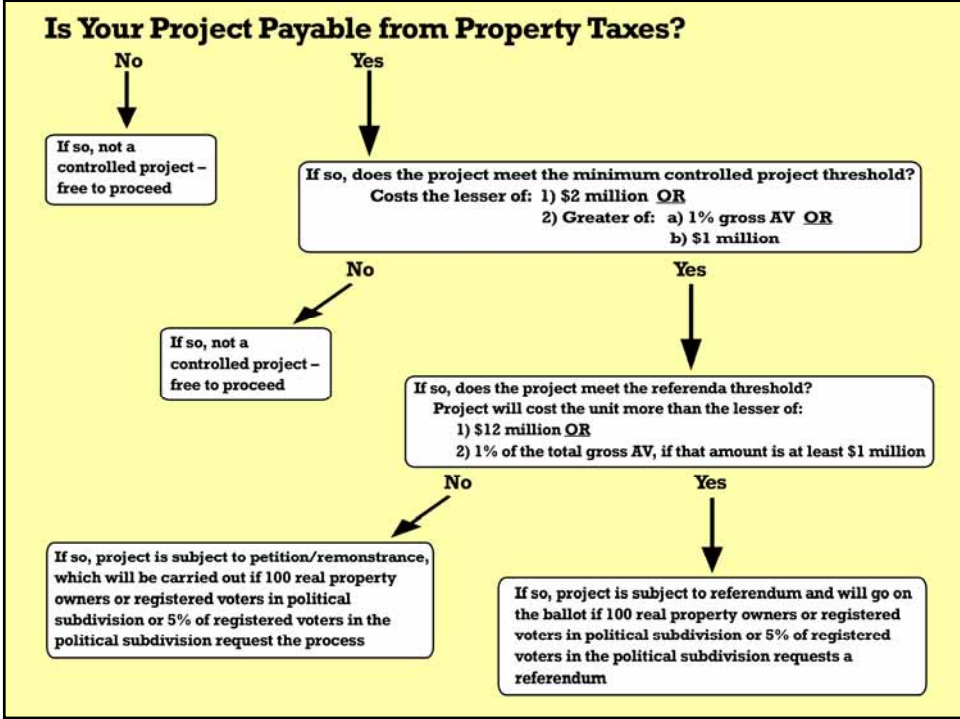
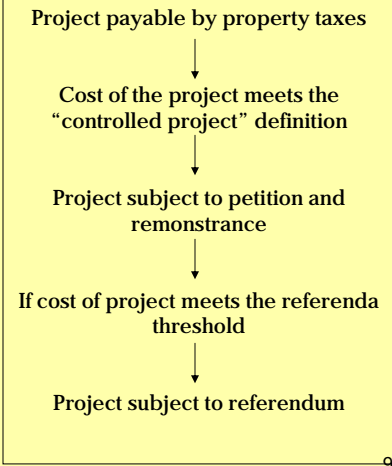
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HEA 1001 Controlled Projects



- The petition and remonstrance process applies to projects that meet the controlled project definition up to the threshold when the referenda provision applies
- Referenda provisions apply to projects that cost the lesser of \$12 Million or 1% of gross AV, if that amount is at least \$1 Million [Section 188]
- Debt approved by referendum is outside of the circuit breaker calculation. Debt approved by Pet/Rem is inside the circuit breaker calculation



Does the project meet the minimum controlled project threshold?
Costs the lesser of:
- \$2 Million; or
- Greater of:
• 1% of gross AV; or
• \$1 Million


<p>Example 1: Town A has a gross AV of \$36,500,000</p> <p style="margin-left: 20px;">Greater of: - 1% gross AV = \$365,000 - \$1 Million</p> <p style="margin-left: 20px;">Lesser of: - \$2 Million - \$1 Million</p> <p>A controlled project for Town A is a project costing at least \$1 Million</p>	<p>Example 2: Town B has a gross AV of \$112,000,000</p> <p style="margin-left: 20px;">Greater of: - 1% gross AV = \$1,120,000 - \$1 Million</p> <p style="margin-left: 20px;">Lesser of: - \$2 Million - \$1,120,000</p> <p>A controlled project for Town B is a project costing at least \$1,120,000.</p>
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CONTROLLED PROJECT: (subject to petition and remonstrance)

For units with gross AV over \$200,000,000 → *Controlled project is one costing \$2 Million*

For units with gross AV under \$100,000,000 → *Controlled project is one costing \$1 Million*


For units with gross AV between \$100,000,000 and \$200,000,000 → *Controlled project is one costing 1% of gross AV*



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Controlled Projects & Petition Remonstrance



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Petition and Remonstrance process stays the same as is under current law.

- To initiate a petition and remonstrance drive, first there must be an application made by:
 - one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or
 - five percent (5%) of the registered voters residing within the political subdivision
- Public notice
- State Board of Accounts oversees the petition and remonstrance period where forms are printed and distributed, signatures are collected for/against the project, signatures are certified
- The project is defeated for one year if there are more remonstrators against the project than petitioners for the project

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Controlled Projects & Referenda



So, your project is a controlled project and is subject to Petition and Remonstrance . . . now, let's see if it is subject to Referendum?

For local units of government, projects costing the lesser of \$12 million or 1% of gross AV, if that amount is at least \$1 Million, are subject to referenda. [Section 188]

- Projects may not be artificially divided to avoid the referendum application process

NOTE: School projects are also subject to referenda, but have different thresholds:

- Elementary school construction projects → \$10 million or more
- High school construction projects (grades 9-12) → \$20 million or more

Does the project meet the referenda threshold?

Project will cost the unit more than the lesser of:

- \$12 Million
- 1% of the total gross AV, if that amount is at least \$1 Million

CONTROLLED PROJECTS MEETING REFERENDA THRESHOLD:

For units with gross AV over \$1.2 Billion →
Referendum is applicable if project costs \$12 Million or more

For units with gross AV under \$100,000,000 →
Referendum is applicable if project costs \$1 Million or more

For units with gross AV between \$100,000,000 and \$1.2 Billion →
Referendum is applicable when project costs 1% or more of the unit's gross AV



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Controlled Projects & Referenda



You have determined that your project meets the threshold to be subject to a referendum: [Sections 193]

- **Hold a public hearing** >> Publish notice in accordance with IC 5-3-1 (and send notice by first class mail to any organization that has filed an annual written request for notice) regarding a public hearing on the preliminary determination to issue bonds or enter into a lease for a controlled project
- **Disclose information at the hearing** >> Certain information must be provided at the public hearing:
 - Current and projected annual debt service payments divided by the net assessed value of taxable property within the political subdivision
 - The sum of the political subdivision's outstanding long term debt plus the debt of taxing units that include any territory of the political subdivision divided by the net assessed value of taxable property within the political subdivision¹⁵



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Controlled Projects & Referenda



If the preliminary determination ordinance is adopted by the officers of the political subdivision: [Section 193]

- **Publish notice of adoption**>> in accordance with IC 5-3-1 (and send notice by first class mail to any organization that has filed an annual written request for notice)
- **Notice must contain the following information**>>
 - Maximum term of the bonds or the lease
 - Maximum principal amount of the bonds or maximum lease rental
 - Estimated interest rates and total interest cost
 - The purpose of the bonds or lease
 - A statement that the proposed debt service or lease payments must approved in an election on a local public question
 - The political subdivision's current debt service levy and rate and the estimated increase that will result if the bonds or lease is issued



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Controlled Projects & Referenda



Referenda process must be triggered by an application from taxpayers/voters [Sections 193 and 194]

- Taxpayers/voters must make application requesting the referendum (same application process as with petition and remonstrance) [Section 193]
 - one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or
 - five percent (5%) of the registered voters residing within the political subdivision
- If a sufficient application requesting the referendum is certified, a referendum will be held at the next general, municipal, or primary election
- Public resources may not be used to promote a position on a referendum
 - Includes activities of professionals involved on the project

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Controlled Projects & Referenda



- Question shall be submitted to the voters [Section 194]:

“Shall _____ (insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert description of the project)?”
- The circuit court clerk shall certify the results of the public question to the county auditor and DLGF.
- The political subdivision may issue the proposed bonds or enter into the proposed lease rental if a majority of the voters voting on the public question vote in favor of the public question. (This debt would be outside of the circuit breaker calculation).
- If a majority of the voters vote against the public question, the political subdivision may not proceed with the financing and must wait one year after the date of the election to submit the question to the voters again.

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Controlled Projects & Referenda



Special Elections: [Section 194]

- If no election will be held within 6 months of the date the auditor certifies the public question, a special election will be held no sooner than 90 days and no later than 120 days after the question is certified, if the issuing political subdivision requests a special election
 - Under current law, counties are required to pay for special elections
- However, if a special election is requested in a year in which a general election or municipal election will be held, a special election will only be held if the political subdivision requesting the special election agrees to pay the costs of the special election



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Bond Refunding



- Applicable to bonds payable from property taxes, special benefits taxes or tax increment
- New defined term “local issuing body” [Section 23]
 - Political subdivision
 - A redevelopment district, airport development zone, military base reuse area, etc.
 - A corporation or other entity that:
 - is not a body corporate and politic established as an instrumentality of the state; and
 - has issued bonds that are payable directly or indirectly from lease rentals payable by a political subdivision or district

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HEA 1001 Bond Refunding



- Term of refunding bonds may not exceed the maximum term of the bonds being refunded [Section 24]
- Savings from refunding bonds may be used only [Section 25]
 - to maintain a debt service reserve fund for the refunding bonds;
 - to pay the principal or interest, or both, on:
 - >the refunding bonds; or
 - >other bonds, pursuant to an ordinance authorizing such use;
 - to reduce the property tax rate or the amount of tax increment collected by the local issuing body

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HEA 1001 Surplus Proceeds



- Applicable to bonds payable from property taxes, special benefits taxes, or tax increment
- Surplus bond proceeds or investment earnings may be used by a local issuing body: [Section 27]
 - to maintain a debt service reserve fund for the bonds to which the surplus bond proceeds or investment earnings are attributable
 - to pay the principal or interest, or both, on any other bonds of the local issuing body

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Other Bond Provisions



- Applies to bonds payable from property taxes, special benefits taxes, or tax increment
- Maximum terms: [Section 29]
 - 20 years for bonds payable from property taxes or special benefits taxes
 - 25 years for bonds payable from tax increment
 - Maximum term permitted under federal law for bonds purchased or guaranteed by federal agency

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Other Bond Provisions



Requires level debt service payments with some exceptions: [Section 31]

- To pay capitalized interest
- To maintain substantially equal payments, in the aggregate, in any period in which the local issuing body pays the interest and principal on outstanding obligations
 - To provide for the payment of principal on the obligations in amounts and at intervals that will produce an aggregate amount of principal payments greater than or equal to the aggregate amount that would otherwise be paid as of the same date
- To provide for level principal payments over the term of the obligations, in order to reduce total interest costs; or
- With respect to obligations wholly or partially payable from tax increment revenues derived from property taxes, provide for the payment of principal and interest in varying amounts over the term of the obligations as necessary due to the variation in the amount of tax increment revenues available for those payments

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TIF and Redevelopment



- Reduces term of allocation areas to 25 years [Section 765]
- Reduces maximum term of redevelopment bonds and leases to 25 years, except for coal gasification projects [Sections 722 and 732]
- Adds nonvoting advisory member of a school board to redevelopment commissions [Section 723]
- As of July 1, 2008 the county council will appoint some of the redevelopment commission members (2 appointments for a five member commission; or 3 appointments for a seven member commission)
- Eliminates "expedited" process to approve changes to declaratory resolutions and plans; requires every amendment, including boundary expansions of less than 20%, to be done through the "long" process [Section 729]

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TIF and Redevelopment



- Provides that enlargement of an allocation may be done only if there are insufficient revenues for the "original project" or if the IEDC, prior to action to enlarge the area, makes findings about job creation or retention, etc. [Sections 739 and 745]
- Requires legislative body approval of the exercise of eminent domain by redevelopment commission [Section 730]
- Requires legislative body approval of all bonds issued by the redevelopment commission, regardless of principal amount [Section 732]
- Limits use of TIF to projects that are generally located in or physically connected to that allocation area [Section 765]

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TIF and Redevelopment



- Removes ability to capture TIF after expiration of term of allocation area in order to prevent default or impairment
- Provides that bonds may be issued to pay for economic development area activities if no other revenue sources are available for that purpose [Section 740]
- Expands information required for redevelopment/economic development plans to include properties – must state the area’s boundaries and in addition, property that would be “acquired for” or “affected by” the establishment of a redevelopment project [Section 725]

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TIF Replacement



- Three types of replacement authorized [Section 239]
 - Special benefits tax throughout redevelopment district
 - Assessment on property located in allocation area
 - Reduction of base assessed value
- TIF Replacement formula expanded to include any action taken by the General Assembly or an administrative agency that reduces TIF [Section 238]
- No longer automatic
- Governing body must conduct public hearing and determine type of replacement mechanism to be used [Section 239]

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