

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE ENROLLED ACT No. 338

AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-9-36-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 9.5. (a) With respect to assessments imposed after June 30, 2001, the works board shall establish a procedure to permit owners of real property in the unit to elect whether to pay assessments in:**

- (1) ten (10), twenty (20), or thirty (30) annual installments; or**
- (2) a number of monthly installments that corresponds to ten (10), twenty (20), or thirty (30) annual installments.**

(b) The works board shall establish the timing of the election under subsection (a) to permit the works board to structure the maturities of the principal of the bonds in a number of annual series that is consistent with the installment periods elected by owners of real property under subsection (a).

(c) A person who elects to pay the person's assessment in installments under this section must, when directed by the works board, enter into a written agreement stating that in consideration of that privilege the person:

- (1) will not make an objection to an illegality or irregularity regarding the assessment against the person's property; and**
- (2) will pay the assessment as required by law with specified interest.**

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(d) The agreement under subsection (c) shall be filed in the office of the disbursing officer.

(e) The interest rate specified for the installments of the assessment may be equal to or greater than the interest rate on bonds issued under section 44 of this chapter.

(f) An assessment of less than one hundred dollars (\$100) may not be paid in installments.

SECTION 2. IC 36-9-36-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 36. (a) Upon receipt of the primary assessment roll, the disbursing officer shall by mail notify each affected person of the amount of the assessment against the person's property.

(b) The notice must state ~~the following:~~ **when the assessment is due, or when the assessment installments are due.**

(1) ~~That the amount is due not later than thirty (30) days after the approval of the assessment roll by the works board:~~

(2) ~~That a person who desires to pay the person's assessment by installments must enter into a written agreement under subsection (c) before the due date:~~

(c) ~~A person who desires to pay the person's assessment in ten (10) annual installments must before the due date enter into a written agreement stating that in consideration of that privilege the person:~~

(1) ~~will not make an objection to an illegality or irregularity regarding the assessment against the person's property; and~~

(2) ~~will pay the assessment as required by law with specified interest:~~

(d) The agreement under subsection (c) shall be filed in the office of the disbursing officer.

(e) The interest rate specified for the installments of the assessment may be equal to or greater than the interest rate on bonds issued under section 44 of this chapter.

(f) An assessment of less than one hundred dollars (\$100) may not be paid in installments.

SECTION 3. IC 36-9-36-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 46. (a) The works board may provide in the preliminary resolution that the bonds issued in anticipation of the collection of the assessments shall be issued so as to mature not less than ~~fifteen (15)~~ **ten (10)** years and not more than thirty (30) years from the date of issuance.

(b) The interest on the bonds shall be payable semiannually from the date of issue. The works board shall fix the rate of interest on the bonds issued.

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(c) Bonds issued in the manner described in subsection (a) shall mature serially, so that some bonds mature each year until the final maturity date of the issue is reached. The terms of the bonds may allow early redemption of the bonds in the event of and to the extent of prepayment of the assessments in anticipation of which the bonds were issued.

(d) The works board must issue the bonds to mature as provided under subsection (c) if a petition requesting the bonds to mature in that manner is filed by a majority of the resident property owners affected by the improvement not later than sixteen (16) days after the resolution is first published.

SECTION 4. IC 36-9-37-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 8.5. (a) With respect to assessments imposed after June 30, 2001, the municipal works board shall establish a procedure to permit owners of real property in the unit to elect whether to pay assessments in:**

- (1) ten (10), twenty (20), or thirty (30) annual installments; or
- (2) a number of monthly installments that corresponds to ten (10), twenty (20), or thirty (30) annual installments.

(b) The municipal works board shall establish the timing of the election under subsection (a) to permit the municipal works board to structure the maturities of the principal of the bonds in a number of annual series that is consistent with the installment periods elected by owners of real property under subsection (a).

(c) A person who elects to pay the person's assessment in installments under this section must, when directed by the municipal works board, enter into a written agreement stating that in consideration of that privilege the person:

- (1) will not make an objection to an illegality or irregularity regarding the assessment against the person's property; and
- (2) will pay the assessment as required by law with specified interest.

(d) The agreement under subsection (c) shall be filed in the office of the disbursing officer.

(e) The interest rate specified for the installments of the assessment may be equal to or greater than the interest rate on bonds issued under section 28 of this chapter.

(f) An assessment of less than one hundred dollars (\$100) may not be paid in installments.

(g) If the property owner is not an individual, the election under subsection (a) must be made in the following manner:

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(1) For a partnership, at least one (1) of the partners must sign the waiver and other instruments required for the election.

(2) For a corporation, the president or vice president must do all of the following:

(A) Sign the waiver and other instruments required for the election.

(B) File a certified copy of the resolution of the board of directors or trustees authorizing the president or vice president to execute those instruments on behalf of the corporation.

(3) For a church, a lodge, a charitable institution, or other organization, the person or persons acting on behalf of the organization must sign the waiver and other instruments required for the election, but only after being instructed to do so by a resolution adopted at a meeting of the organization called for that purpose.

SECTION 5. IC 36-9-37-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) If a municipal works board orders any of the following improvements **and assessments are imposed after June 30, 2001, to pay for the improvements or to repay bonds issued under this chapter after June 30, 2001**, each owner of property assessed for that improvement may elect to pay the owner's assessment in ~~ten (10)~~ **equal annual installments with interest as described in section 8.5(a) of this chapter:**

- (1) Streets.
- (2) Alleys.
- (3) Other paved public places.
- (4) Lighting.
- (5) For municipalities that own and operate a water utility, water main extensions from the water utility.

(b) The interest rate specified for the installments may be equal to or greater than the interest rate on bonds issued under section 28 of this chapter:

(c) An assessment of less than one hundred dollars (\$100) may not be paid in installments:

(d) If the property owner is not an individual, the election under subsection (a) must be made in the following manner:

(1) For a partnership, at least one (1) of the partners must sign the waiver and other instruments required for the election:

(2) For a corporation, the president or vice president must do all

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of the following:

- (A) Sign the waiver and other instruments required for the election.
- (B) File a certified copy of the resolution of the board of directors or trustees authorizing the president or vice president to execute those instruments on behalf of the corporation.
- (3) For a church, lodge, charitable institution, or other organization, the person or persons acting on behalf of the organization must sign the waiver and other instruments required for the election, but only after being instructed to do so by a resolution adopted at a meeting of the organization called for that purpose.

SECTION 6. IC 36-9-37-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) If a property owner has elected to pay the property owner's assessment in installments and the assessment roll for the cost of the improvement was finally approved before July 1 of a year, the first installment of the principal of the assessment, together with accrued interest, is payable on November 10 of that year.

(b) If a property owner has elected to pay the property owner's assessment in installments and the assessment roll for the cost of the improvement was finally approved after June 30 of a year, the first installment of the principal of the assessment, together with accrued interest, is payable on May 10 of the following year.

(c) Subsequent installments of principal and interest are payable at:

- (1) one (1) year intervals after the date of payment of the first installment under subsection (a) or (b) **if the property owner elected annual payments; or**
- (2) one (1) month intervals after the date of payment of the first installment under subsection (a) or (b) **if the property owner elected monthly payments.**

(d) **This subsection applies if the property owner elected annual installment payments.** With the first installment of principal, and interest to the first bond maturity date, an amount sufficient to cover six (6) months interest in advance on the assessment shall also be collected. With each succeeding installment of principal, except the last installment, six (6) months interest shall be collected in advance, so that only one (1) annual payment is made by the property owner on the assessment.

(e) **This subsection applies if the property owner elected monthly installment payments. With each of the first six (6) installments of principal, and interest to the first bond maturity**

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date, an amount sufficient to cover one (1) additional month's interest in advance on the assessment shall also be collected. With each succeeding installment of principal, except the last six (6) installments, one (1) month's interest shall be collected in advance.

SECTION 7. IC 36-9-37-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 29. (a) ~~The bonds shall be issued in ten (10) series with one (1) series payable each year, beginning as provided in subsection (c) or (d). The ten (10) series shall, to the extent possible, be issued in equal amounts.~~ **The municipal legislative body shall provide in the preliminary resolution that the bonds issued in anticipation of the collection of the assessments shall be issued so as to mature not less than ten (10) years and not more than thirty (30) years from the date of issuance.**

(b) The terms of the bonds may allow early redemption of the bonds for and to the extent of prepayment of the assessments in anticipation of which the bonds were issued.

(c) If the assessment roll for the cost of an improvement was finally approved before July 1 of a year, the first of the series of bonds issued for the payment of the improvement is payable on February 1 of the following year, and the interest on the bonds shall be computed accordingly.

(d) If the assessment roll for the cost of an improvement was finally approved after June 30 of a year, the first of the series of bonds issued for the payment of the improvement is payable on August 1 of the following year, and the interest on the bonds shall be computed accordingly.

(e) Interest on the bonds is payable semiannually, beginning on the date prescribed by subsection (c) or (d).

(f) The municipal works board may by ordinance or resolution choose to:

- (1) sell the bonds by negotiated private sale to a financial institution; and
- (2) remit the proceeds of the bonds to the contractor for the public improvement.

(g) An action to challenge the validity of the bonds or the sale of the bonds may not be brought after issuance of the bonds.

SECTION 8. IC 36-9-38-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2001]: **Sec. 23.5. (a) With respect to assessments imposed after June 30, 2001, the works board shall establish a procedure to permit owners of real property in the improvement district to elect whether to pay assessments in:**

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(1) one (1), five (5), ten (10), fifteen (15), or twenty (20) annual installments; or

(2) a number of monthly installments that corresponds to one (1), five (5), ten (10), fifteen (15), or twenty (20) installments.

(b) The works board shall establish the timing of the election under subsection (a) to permit the works board to structure the maturities of the principal of the bonds in a number of annual series that is consistent with the installment periods elected by owners of real property under subsection (a).

SECTION 9. IC 36-9-38-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 29. (a) At the time the municipal works board determines the amount of the assessments, the municipal works board shall also determine the following:

(1) The manner in which the municipality shall pay the municipality's assessment, if any.

(2) ~~Whether~~ **The number of monthly or annual installments over which the other assessments may will be paid. in one (1); five (5); ten (10); fifteen (15); or twenty (20) equal annual installments.**

(3) The maximum rate of interest on the installments, which may be equal to or greater than the interest rate on bonds issued under section 30 of this chapter.

(b) The works board shall certify the determination under subsection (a) to the municipal fiscal officer. This certification must accompany the assessment roll.

SECTION 10. IC 36-9-38-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 30. (a) For the purposes of anticipating the collection of assessments under this chapter, the municipality shall issue bonds payable out of the assessments. However, a consolidated city is not required to issue bonds under this section.

~~(b) The principal of the bonds matures in series. The series shall correspond to the number of installments of principal on the assessments as fixed by the municipal works board.~~ The terms of the bonds may allow early retirement of the bonds for and to the extent of prepayment of assessments in anticipation of which the bonds were issued.

(c) The bonds bear interest at a rate or rates determined by the legislative body of the municipality and shall be executed, sold, and delivered in denominations determined to be appropriate by the municipal fiscal officer as bonds of a municipality are executed, sold, and delivered.

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(d) If the bonds are sold at a public sale, the advertisement of the sale of the bonds shall be published in accordance with IC 5-3-1. The municipality may also sell the bonds by negotiated private sale to a financial institution.

(e) Unless the municipality chooses to sell the bonds by a negotiated private sale to a financial institution, the sale shall be made to the highest and best bidder, as provided in IC 36-9-36. However, the sale may not be for less than the face value of the bonds, plus interest from the date of the bonds to the date of delivery.

(f) The bonds and interest on the bonds are exempt from taxation to the extent provided by IC 6-8-5-1.

(g) The bonds are not a corporate obligation or an indebtedness of the municipality and are payable only out of money actually paid and collected under this chapter (or under IC 36-9-20 before its repeal in 1993). The bonds must state this fact on the bonds' face.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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