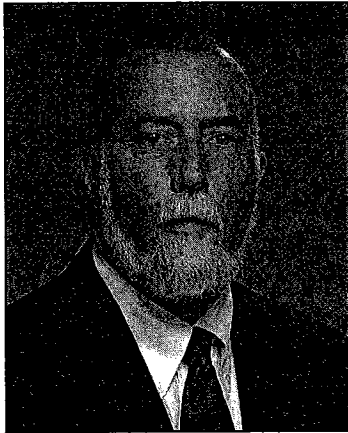
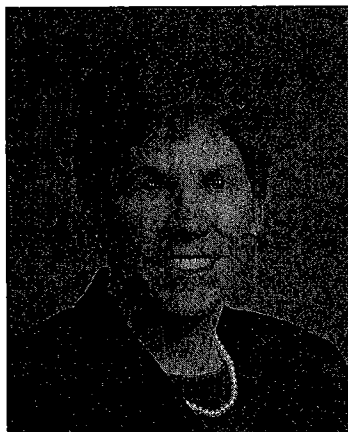


Recent Developments in Property Tax Legislation

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2% Circuit Breaker

On April 25, 2006, the Department of Local Government Finance (DLGF) issued an instructional bulletin (Bulletin) to all taxing units concerning the implementation of the "2% Circuit Breaker." All county officials need to become familiar with the 2% Circuit Breaker because it will impact county budgets for years to come unless revisited by the General Assembly.

The General Assembly first authorized the 2% Circuit Breaker in 2005. At that time, any county was authorized, but not required, to offer a property tax credit against property taxes attributable to residential property that exceeded 2% of the gross assessed value of the residential property. Earlier this year, the General Assembly mandated the application of the 2% Circuit Breaker property tax credit to all real and personal property throughout State. Under the 2% Circuit Breaker, no taxpayer is required to pay property taxes in an amount that exceeds 2% of the gross assessed value of the taxpayer's eligible property for certain property in 2007 (at the County Council's option); in 2008 and 2009 (with the County Council choosing the residential property to which the 2% Circuit Breaker applies); and for all property automatically in 2010. The Lake County Council adopted an ordinance in early April authorizing the application of the 2% Circuit Breaker to homesteads in Lake County. The 2% Circuit Breaker will automatically apply in 2007 to Lake County.

In a nutshell, the 2% Circuit Breaker provides that:

- For property owners, annual property taxes cannot be any higher than 2% of the gross assessed value of the property. So, on a home assessed at \$100,000, property taxes could not be more than \$2,000. If,

after applying all local taxes and deducting all credits, the home's property taxes equaled \$3,000, the county auditor is required to credit \$1,000 of the tax bill to the owner.

- The legislation clearly states that the application of the 2% Circuit Breaker results in a reduction of revenues. For local governments, including counties, budgets would be reduced by the total amount of the 2% Circuit Breaker for each property that receives the credit – in this example local budgets would be reduced by \$1,000, spread among all taxing units in the county.

The financial impact of the 2% Circuit Breaker on county budgets will depend on the number of credits eligible to taxpayers. The law does not allow counties to raise additional revenue or to borrow funds to offset a revenue loss from applying the 2% Circuit Breaker. Counties may be forced to reduce budgets. In fact, the Bulletin issued by the DLGF confirms this. The Bulletin states that, upon receipt of semi-annual property tax collections, each political subdivision, including the county, must first set aside an amount of property taxes sufficient to pay its debt or lease obligations; it may then use any remaining revenue to fund day-to-day operations.

Most counties will gradually see the effect of the 2% Circuit Breaker as it becomes mandatory for residential property in 2008; the most significant effects will be seen in 2010 when the 2% Circuit Breaker is mandated for all real and personal property. This may adversely affect the county's ability to fund essential services and to adequately fund economic development efforts.

The 2% Circuit Breaker will likely impact future bond issues and lease financings payable from property taxes, including general

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obligation bonds and special taxing district bonds and all types of leases. Indiana has long been an unlimited tax bond state; bonds and lease rentals have been payable from ad valorem property taxes unlimited as to rate or amount. Some states, in contrast, have been limited tax bond states. Limited tax bonds generally sell at higher interest rates than unlimited tax bonds.

The 2% Circuit Breaker will also impact the outstanding bonds and lease rental obligations of all political subdivisions (including the county) payable from property taxes, if it impacts the ability of a political subdivision to honor its prior pledge that the property tax will be unlimited as to rate or amount.

Any county planning to finance a project in the future with bond or lease obligations payable from property taxes should immediately consult with its local attorney, bond counsel and financial advisor to determine how the application of the circuit breaker will impact the financing and the project. The county should also work with its financial professionals to determine how the application of the circuit breaker will affect the county's ability to fund day-to-day operations and impact its budget.

Any county with outstanding bond or lease obligations with continuing disclosure responsibilities under Federal securities law should immediately consult with its local attorney, bond counsel and financial advisor to determine whether information concerning the application of the circuit breaker to those obligations is a material event that requires immediate disclosure and how that information should be included in its annual continuing disclosure filings. Of course, even counties without continuing disclosure requirements must analyze the circuit breaker's impact on its ability to pay debt service or lease rentals and fund the budget.

Changes to Petition and Remonstrance Process

The General Assembly has also imposed further restrictions on

counties seeking to finance projects with bonds or leases payable from property taxes. Counties are now prohibited from spending public resources or using public funds to promote a position on a project payable from property taxes once the county has made a preliminary determination to issue bonds or enter into a lease. Prior to this session, the prohibition on the use of public resources did not begin until it was clear that a petition and remonstrance process would apply to the project.

The General Assembly has also enacted legislation prohibiting the professionals involved in a project, including your county attorney, your bond counsel and financial advisor, from spending any money to promote a position with respect to the project. A person who spends money to promote a project in violation of this provision may be subject to a \$10,000 fine (violation is a class A infraction), and is barred from providing any services to the county with respect to the project.

Ice Miller LLP serves as General Counsel to the Association of Indiana Counties. For further information on the 2% Circuit Breaker or the petition and remonstrance process, please call Buddy Downs at (317) 236-2339. ●