

**§5213. Capital improvement districts; public hearing; notice; referendum votes**

In order to establish a capital improvement district, a municipality shall adhere to the following procedures. [PL 2003, c. 510, Pt. A, §29 (NEW).]

**1. Initial determinations.** In order to establish a capital improvement district, the municipal officers shall establish all the public elements of the proposed capital improvement district for presentation to the residents of the municipality at a public hearing held pursuant to subsection 3. The municipal officers shall:

- A. Determine the proposed boundaries of the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- B. Identify each separate parcel of property within the proposed capital improvement district and the parcel's owner of record; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- C. Describe all improvements to the proposed capital improvement district that need to be made; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- D. Calculate an estimate of the costs of the proposed improvements; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- E. Calculate the assessed shares and the contingency fee of no more than 25% of that assessment to the property owners in the proposed capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- F. Establish the proposed duration of the payment period for the assessed shares; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- G. Describe specifically the public elements of the capital improvement district that may be accepted by the voters of the municipality; and [PL 2003, c. 510, Pt. A, §29 (NEW).]
- H. Schedule the public hearing pursuant to subsection 3 and the referendum pursuant to subsection 4. [PL 2003, c. 510, Pt. A, §29 (NEW).]

[PL 2003, c. 510, Pt. A, §29 (NEW).]

**2. Public notice.** The municipal officers shall provide posted notice of the public hearing held pursuant to subsection 3 in the same place and manner as the posting of a town meeting warrant and publish notice of the public hearing in a newspaper of general circulation within the municipality at least 14 days in advance of the public hearing. The published notice must include:

- A. A description of the proposed boundaries of the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- B. The proposed improvements to the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- C. The estimated costs of the proposed improvements; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- D. The public elements of the capital improvement district; and [PL 2003, c. 510, Pt. A, §29 (NEW).]
- E. A brief narrative description and schedule of the referendum conducted pursuant to subsection 4. [PL 2003, c. 510, Pt. A, §29 (NEW).]

At least 14 days in advance of the date of the initial public hearing, the same information provided in the published notice must also be sent by certified mail to all owners of property within the proposed capital improvement district according to the municipality's assessing records. Notice for any additional public hearings must be posted and published in the same manner as notice for the initial public hearing, but mailed notice of the subsequent public hearings is not required.

[PL 2003, c. 510, Pt. A, §29 (NEW).]

**3. Public hearing.** Prior to any referendum held pursuant to subsection 4 or 5, the municipal officers shall hold an initial public hearing on the proposed capital improvement district to solicit comments from the residents of the municipality and the owners of property located in the proposed district concerning the:

- A. Proposed boundaries of the capital improvement district; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- B. Type of improvements to the proposed capital improvement district being considered; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- C. Need for the proposed improvements; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- D. Costs of the proposed improvements; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- E. Projected assessed shares and the contingency fee of no more than 25% of that assessment to the owners of property located in the proposed capital improvement district to pay for the improvements being considered; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- F. Proposed duration of the payment period for those special assessments; [PL 2003, c. 510, Pt. A, §29 (NEW).]
- G. Proposed public elements of the capital improvement district; and [PL 2003, c. 510, Pt. A, §29 (NEW).]
- H. Scheduled dates of referenda conducted pursuant to subsection 4 or 5. [PL 2003, c. 510, Pt. A, §29 (NEW).]

The municipal officers may hold additional public hearings as necessary. [PL 2003, c. 510, Pt. A, §29 (NEW).]

**4. Referendum of owners of property in proposed capital improvement district.** The municipal officers shall call and conduct a referendum among the owners of property within the proposed capital improvement district to determine the property owners' willingness to undertake the costs of the proposed improvements to the capital improvement district.

- A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection. [PL 2003, c. 510, Pt. A, §29 (NEW).]
- B. The registered voters of the municipality who own property within the proposed capital improvement district and the owner or owners of record for each parcel of property located in the proposed capital improvement district reflected on the deed for the property recorded in the registry of deeds within the county as of the preceding April 1st, if the owner or owners are of legal voting age and citizens of the United States, are eligible to vote in the referendum. A person may not cast more than one vote. The municipal officers shall determine who are the legal voters of the proposed capital improvement district and shall prepare or cause to be prepared a list of voters at least 24 hours before the referendum is conducted. [PL 2003, c. 510, Pt. A, §29 (NEW).]
- C. The referendum must be scheduled to occur no sooner than 45 days after the date of the initial public hearing held pursuant to subsection 3. [PL 2003, c. 510, Pt. A, §29 (NEW).]
- D. A public hearing must be held pursuant to section 2528, subsection 5, only if any of the information presented to the voters at the most recent public hearing called pursuant to subsection 3 is changed prior to inclusion on the ballot. [PL 2003, c. 510, Pt. A, §29 (NEW).]
- E. The referendum to be voted on must be worded substantially as follows: "As an owner of property in the proposed capital improvement district described on the reverse side of this ballot or in the attachment to this ballot, are you in favor of authorizing the municipality of \_\_\_\_\_ to apply a special assessment against the property you own in the proposed capital improvement district for a period of \_\_\_\_\_ years, for the purpose of (description of improvements), with the total assessment to

all property owners within the capital improvement district not to exceed \$ \_\_\_\_\_, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and with said authorization contingent on the voters of the municipality of \_\_\_\_\_ accepting the public costs for the capital improvement district improvements before any work is done, specifically described as (description of public elements)?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same. [PL 2003, c. 510, Pt. A, §29 (NEW).]

The municipal officers may proceed with conducting the municipal referendum in accordance with subsection 5 only if 2/3 of those casting ballots pursuant to this subsection vote to approve creating the capital improvement district.

[PL 2003, c. 510, Pt. A, §29 (NEW).]

**5. Referendum of municipal voters.** The referendum of the municipal voters may not be called and conducted for the purposes of this chapter unless the referendum held pursuant to subsection 4 resulted in a 2/3 majority vote supporting the ballot question. If the referendum held pursuant to subsection 4 received a 2/3 majority vote, the municipal officers shall call and conduct a referendum for the voters of the municipality to determine if the public elements of the proposed capital improvement district authorized pursuant to subsection 4 are authorized by the voters of the municipality.

A. The method of calling and voting on the referendum question is as provided in section 2528 except as otherwise provided in this subsection. [PL 2003, c. 510, Pt. A, §29 (NEW).]

B. The referendum of the municipal voters must be scheduled to occur within 45 to 90 days after the date of the referendum held pursuant to subsection 4. [PL 2003, c. 510, Pt. A, §29 (NEW).]

C. The referendum to be voted on must be worded substantially as follows: "Are you in favor of establishing a capital improvement district described on the reverse side of this ballot or in the attachment to this ballot and authorizing a special assessment against the several properties in the capital improvement district, with the special assessment running for a period of \_\_\_\_\_ years, for the purpose of (describe improvements), with the total assessment to all owners of property within the capital improvement district not to exceed \$ \_\_\_\_\_, plus a contingency of no more than 25% of that assessment, all of which are subject to the property tax collection and lien procedures established by state law, and are you also in favor of the municipality of \_\_\_\_\_ accepting the public costs for the capital improvement district improvements, specifically described as (describe the public elements), with all associated and ongoing rights, privileges and responsibilities of public ownership?"

The voters shall indicate by a cross or check mark placed against the word "Yes" or "No" their opinion of the same. [PL 2003, c. 510, Pt. A, §29 (NEW).]

D. If a majority of those voting approve of the ballot question, the capital improvement district is created. Upon the creation of a capital improvement district, the municipality is authorized to raise revenues pursuant to chapter 223 and expend those revenues for the improvements authorized at referendum. [PL 2003, c. 510, Pt. A, §29 (NEW).]

E. If the owners of property within the proposed capital improvement district or the voters of the municipality fail to establish the capital improvement district, the municipal officers may not act upon a proposal to create the same capital improvement district for a period of 3 years from the date that capital improvement district was rejected by voters. [PL 2003, c. 510, Pt. A, §29 (NEW).]

[PL 2003, c. 510, Pt. A, §29 (NEW).]

## SECTION HISTORY

PL 2003, c. 510, §A29 (NEW).

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