

**TOWNSHIP BULLETIN
AND UNIFORM COMPLIANCE GUIDELINES
ISSUED BY STATE BOARD OF ACCOUNTS**

Volume 333, Page 1

June 2021

ITEMS TO REMEMBER

JUNE

- June 1: Prove all ledgers for the prior month.
- On or before June 1 and December 1 of each year (or more frequently if the county legislative body adopts an ordinance requiring additional certifications) the Trustee shall certify a list of the name and address of each person who has money due from the Township to the County Treasurer. [IC 6-1.1-22-14]
- June 15: Deadline to upload monthly bank reconcilements, bank statements, outstanding check lists, approved board minutes, and funds ledger, summarizing total receipts, disbursements, and balances by fund for April 2021 to Gateway. [State Examiner Directive 2018-1 (Amended 2020)]
- June 20: If your monthly average tax withheld is more than \$1,000, the 20th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- June 30: If your monthly average tax withheld is \$1,000 or less, the 30th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- All local investment officers shall reconcile at least monthly the balance of public funds, as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1(e)]
- Deadline for State Budget Agency to provide Assessed Value Growth Quotient to Townships. [IC 6-1.1-18.5-2]

JULY

- July 1: Prove all ledgers for the prior month.
- July 4: Independence Day – Legal Holiday [IC 1-1-9-1]
- July 15: Deadline to upload monthly bank reconcilements, bank statements, outstanding check lists, approved board minutes, and funds ledger, summarizing total receipts, disbursements, and balances by fund for May 2021 to Gateway. [State Examiner Directive 2018-1 (Amended 2020)]
- July 15: Department of Local Government Finance will provide each Township an estimate of the maximum permissible property tax levy for the ensuing year, along with guidance on calculating allowable adjustments to the maximum levy. [IC 6-1.1-18.5-24]
- July 20: If your monthly average tax withheld is more than \$1,000, the 20th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.

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JULY
(Continued)

- July 30: If your monthly average tax withheld is \$1,000 or less, the 30th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- July 31: Last day to file Employer's Quarterly Federal Tax Return, Form 941, with the Internal Revenue Service for payment of federal tax withheld
- July 31: Last day to file report with the Indiana Department of Workforce Development for the quarter ending June 30.

All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1]

Department of Local Government Finance will provide to each Township that levies a property tax an estimate of the amount by the property tax distributions will be reduced in the ensuing year due to circuit breaker credits. [IC 6-1.1-20.6-11.1]

AUGUST

- August 1: Prove all ledgers for the prior month.
- Post a verified statement showing the indebtedness of the Township in detail and giving the number and total amount of outstanding orders, warrants, and accounts. [IC 36-6-4-10]
- August 1: At their first meeting in August, the county fiscal body shall review the estimated property tax levy limits and the estimated reductions due to circuit breakers for each Township. The county fiscal body will either prepare and distribute a written recommendation for the taxing units or the county auditor will distribute the minutes of the meeting to all Townships after the minutes are approved by the fiscal body. [IC 6-1.1-17-3.6]
- August 15: Deadline to upload monthly bank reconciliations, bank statements, outstanding check lists, approved board minutes, and funds ledger, summarizing total receipts, disbursements, and balances by fund for June 2021 to Gateway. [State Examiner Directive 2018-1 (Amended 2020)]
- August 20: If your monthly average tax withheld is more than \$1,000, the 20th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- August 30: If your monthly average tax withheld is \$1,000 or less, the 30th is the last day to report and make payment for the balance of State and County Income Tax withheld in the prior month to Indiana Department of Revenue.
- August 31: All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1]

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CEMETERIES - OFFICIAL OPINION 91-5

The Attorney General of the State of Indiana, in response to a request for an opinion whether a cemetery may legally deny families the right to use United States government veteran markers provided the following conclusion:

It is, therefore, my Official Opinion that although the owner of every cemetery may make, adopt, and enforce rules and regulations specifying the size and type of markers or monuments under Indiana Code Section 23-14-1-11, no owner of a cemetery may adopt and enforce rules and regulations in violation of Indiana Code Chapter 23-14-11, which prohibits the board of trustees, or other governing body or custodian, controlling any cemetery in the state from refusing to allow the setting up of markers for the graves of deceased soldiers in its grounds provided that such markers shall conform to the standard markers furnished by the United States government for marking the graves of deceased soldiers of the United States army.

SALES TAX - EXEMPTIONS - AUDIT POSITIONS

Following are some general comments pertaining to the State Board of Accounts audit position regarding local governmental unit's exemption from sales tax:

1. Items should be purchased through the issuance of purchase orders and paid for by township checks to avoid the problem of reimbursing employees for sales tax paid on materials purchased for the township when the township is exempt from sales tax.
2. Sales tax paid on lodging and meals by officials and employees while in travel status on township business of the township may be reimbursed in accordance with an official travel expense reimbursement policy adopted by resolution of the township.
3. We have often noted that out-of-state vendors not assessing sales tax on materials purchased out-of-state by a governmental unit for delivery in Indiana.
4. The Indiana Department of Revenue has consistently taken a position that the furnishing of food, fuel, drugs, etc., by the township to needy persons (Township Assistance Laws) are exempt from sales tax because the commodities are predominantly for use in the performance of governmental functions. The township would not be exempt, however, from paying sales tax on utility bills because the utility bills of Township Assistance recipients are billed in the name of each individual and not in the name of the township and individuals are not exempt from the payment of sales tax. Therefore, all purchase orders issued directly to a vendor, except for utility bills, are normally, exempt from sales tax.

Should you desire additional information concerning State taxation matters, we suggest you contact the Indiana Department of Revenue at 100 North Senate Avenue, Room N203, Indianapolis, IN 46204, (317) 233-2240.

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DONATIONS

Following is the audit position of the State Board of Accounts concerning townships receiving donations.

1. Restricted donations are defined as those to which the donor has attached terms, conditions, and/or purposes.
2. Unrestricted donations are defined as those to which the donor has not attached terms, conditions, or purposes.
3. The township has the option to accept or reject both restricted and/or unrestricted donations. Approval shall be obtained prior to accepting a donation.
4. The Attorney General held in Official Opinion 68 of 1961 that no appropriation is necessary to expend monies donated for a specific purpose by a donor.
5. Restricted donations should be receipted into a separate fund and properly titled. Such fund should not be commingled with other funds within the accounting system. An exception would be concerning statutory requirements; i.e., expenditures related to fire protection are required to be from the Firefighting Fund, etc.
6. Expenditures may be made for the purpose(s) restricted without appropriation.

GUARANTEED ENERGY SAVINGS CONTRACTS

Undocumented Claims

There are situations where a township may not have provided information which would indicate that a contract complies with the Indiana Code provisions referenced below. Examples would include "stipulated savings" that are not documented by "industry engineering standards", items which were "causally connected work" but not documented by "industry engineering standards" in accordance with IC 36-1-12.5-11, or improvements that are not "causally connected" to an energy conservation measure but are greater than fifteen percent (15%) of the total value of the guaranteed energy savings contract or lack of in compliance with IC 36-1-12.5-10.

IC 36-1-12-1(e) of the Public Works Law states in part "As an alternative to this chapter, the governing body . . . may . . . enter into a guaranteed savings contract as permitted under IC 36-1-12.5."

IC 36-1-12.5-1 (a) states in part "As used in this chapter, "conservation measure": (1) means: (A) a facility alteration; (B) an alteration of a structure (as defined in IC 36-1-10-2); (C) a technology upgrade; or (D) with respect to an installation described in subdivision (2)(G) or (2)(H), an alteration of a structure or system; designed to . . . reduce energy . . . or other operating costs. . ."

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GUARANTEED ENERGY SAVINGS CONTRACTS

(Continued)

IC 36-1-12.5-5 states in part "(a) The governing body may enter into . . . a guaranteed savings contract with a qualified provider to . . . reduce the Township's . . . energy . . . or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds: (1) in the case of conservation measures . . . that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount to be saved in energy consumption costs and other operating costs over twenty (20) years from the date of installation if the recommendations in the report were followed; . . . (3) in the case of a guaranteed savings contract, the qualified provider provides a written guarantee as described in subsection (d)(3)."

Repayment of Costs in Excess of Savings

Please note IC 36-1-12.5-5 states in part "(d) An agreement to participate in a . . . guaranteed savings contract under this section must provide that: . . . (3) in the case of the guaranteed savings contract: (A) the: (i) savings in energy and . . . and other operating costs; . . . due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and (B) the qualified provider will reimburse the Township . . . for the difference between the guaranteed savings and the actual savings . . ."

Stipulated Savings and Industry Engineering Standards

IC 36-1-12.5-0.5 states "As used in this chapter, 'actual savings' includes stipulated savings."

IC 36-1-12.5-3.7 states in part "As used in this chapter, 'stipulated savings' are assumed savings that are documented by industry engineering standards."

IC 36-1-12.5-11 states in part "(a) A guaranteed savings contract that includes stipulated savings must specify the methodology used to calculate the savings using industry engineering standards. (b) Stipulated savings may be used for conservation measures including . . . (11) Any work that is causally connected to the energy conservation measures listed in subdivisions (1) through (10). (c) The guaranteed savings contract shall: describe stipulated savings for: (A) conservation measures; and (B) work causally connected to the energy conservation measures; and (2) document assumptions by industry engineering standards."

Non "Causally connected work"

IC 36-1-12.5-0.7 states "As used in this chapter, 'causally connected work' means work that is required to properly implement an energy conservation measure."

IC 36-1-12.5-12 states in part "(a) An improvement that is not causally connected to a conservation measure may be included in a guaranteed energy savings contract if: the total value of the improvement does not exceed fifteen percent (15%) of the total value of the guaranteed savings contract . . ."

Reports

IC 36-1-12.5-10 states in part "The governing body shall: (1) provide to the lieutenant governor not more than sixty (60) days after the date of execution of the guaranteed savings contract: (A) a copy of the executed guaranteed savings contract; (B) the: (i) energy . . . costs; . . . before the date of execution of the guaranteed savings contract; and (C) the documentation using industry engineering standards for: (i) stipulated savings; and (ii) related capital expenditures; and (2) annually report to the lieutenant governor, in accordance with procedures established by the lieutenant governor, the savings resulting in the previous year from the guaranteed savings . . ."

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GUARANTEED ENERGY SAVINGS CONTRACTS

(Continued)

Audit Exceptions

The State Board of Accounts will take audit exception to payments not in accordance with by IC 36-1-12.5-1 et seq. The Township should request repayment for payments not authorized by IC 36-1-12.5-1 et seq. in accordance with IC 36-1-12.5-5. The State Board of Accounts will request repayment of unauthorized payments which have not been reimbursed to the Township by the end of the contract period.

Additionally, the State Board of Accounts will take audit exception if the Township has not properly filed reports as required by IC 36-1-12.5-10.

The State Board of Accounts is also of the audit position that political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action.

INDIANA GOVERNMENT GAAP TRAINING SERIES

The Central Indiana Association of Governmental Accountants (AGA) has partnered with Crowe LLP to provide a virtual governmental Generally Accepted Accounting Principles (GAAP) training series. This is a good opportunity for both GAAP and non-GAAP units to better understand what GAAP is and how to implement GAAP. These sessions are free of charge for all Indiana government employees and provide Continuing Professional Education (CPE) credits. Please see [this link](#) to the AGA's event calendar page for more information.

Sessions:

- June 28th, 2021 – 1:00 to 2:30.
 - Governmental GAAP – What is it?
- July 13th, 2021 – 1:00 to 3:00.
 - Governmental GAAP – How to Implement.
- July 20th, 2021 – 1:00 to 2:30.
 - Government GAAP – Expert Panelist Discussion

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DESIGNATION OF TRUSTEE

We have received many calls over the course of the pandemic and many trustees have not properly designated an individual.

IC 36-6-4-18 requires the township trustee within thirty (30) days after taking office, the trustee shall designate a person who shall perform the trustee's duties whenever the trustee is incapable of performing the trustee's duties because the trustee (1) is absent from the township; or (2) becomes incapacitated. The trustee shall give notice of the designation to the chairman of the township board, the county sheriff, and any other persons that the trustee chooses. The designee shall have all the powers of the trustee. The trustee may change the designee at any time. The designee shall perform the trustee's duties until: (1) the trustee is no longer absent from the township; or (2) an acting trustee is appointed by the county commissioners under IC 36-6-4-16.

TOWNSHIP ASSISTANCE - DONATIONS

It has been our position to not take audit exception to minimal donations received by the Township, for Township Assistance purposes, being receipted into the Township Assistance fund. If donations are not accounted for in a separate fund, then the funds received would assume the characteristics of the Township Assistance fund and shall be used for Township Assistance as provided by IC 12-20 after the funds have been properly appropriated. A township receiving substantial donations would require township officials to consider the impact that their accounting procedures would have on the tax levy of the fund. Any substantial donations are to be accounted for in a separate fund to ensure property tax levies are appropriate and in compliance with any donor restrictions.

NEW LAWS AFFECTING TOWNSHIPS

The following is a Digest of some of the laws passed by the 2021 Regular and Special Sessions of the General Assembly affecting Townships. Please note the effective dates. Some of the laws do not pertain directly to Townships but are included for ready reference to the covered subject matter.

The Digest is not intended as an expression of legal interpretation. The Digest is also not intended to be all inclusive. References in the Digest will be to the Indiana Code in the following form (Amends IC 20-26-1-4) (Amends Indiana Code, Title 20, Article 26, Chapter 1, Section 4). The final version of each Public Law can be found on the Indiana General Assembly website (<http://iga.in.gov/>). If you have any questions regarding legal interpretation, please consult your Township attorney.

**Public Law 14-2021, House Enrolled Act 1065 – Effective July 1, 2021.
Fire Protection Territories**

Adds IC 36-8-19-6.9

Amends IC 36-8-19-6

Provides that the procedure for adopting an ordinance or resolution to establish a fire protection territory (territory) applies to expanding an existing territory. Provides that an ordinance or resolution establishing or expanding a territory must include an agreement as to the disposition of the territory's property when a participating unit withdraws or the territory is dissolved. Specifies that with regard to an ordinance or resolution to establish or expand a territory, the unit must hold three separate public hearings to hear public comment regarding the proposed territory before adoption of the ordinance or resolution, with the last public hearing held not later than 10 days before the ordinance or resolution is adopted. Establishes residency requirements for members of a joint executive board of a territory.

NEW LAWS AFFECTING TOWNSHIPS

(Continued)

**Public Law 134-2021, House Enrolled Act 1169 – Effective July 1, 2021.
Cybersecurity Incidents**

Adds IC 4-13.1-1-1.3; IC 4-13.1-1-1.5; IC 4-13.1-2-9; IC 4-13.1-2-10;

Amends IC 4-13.1-2-2; IC 4-13.1-2-8; IC 4-22-2.1-6; 4-23-7.3-16; 5-22-22-4.5; 36-1-12-4

Requires the office of technology to maintain a repository of cybersecurity incidents. Provides that a state agency and a political subdivision shall: (1) report any cybersecurity incident to the office without unreasonable delay and not later than two business days after discovery of the cybersecurity incident in a format prescribed by the chief information officer; and (2) provide the office with the name and contact information of any individual who will act as the primary reporter of a cybersecurity incident before September 1, 2021, and before September 1 of every year thereafter. Allows the office of technology to assist a state agency with certain issues concerning information technology. Provides that if requested by a political subdivision, the office may develop a list of third party technology providers that work with the office. Requires a state educational institution to submit a quarterly analysis with certain conditions. Makes conforming changes.

**Public Law 88-2021, House Enrolled Act 1437 – Effective Upon Passage
Electronic Meetings and Signatures**

Adds IC 5-1-14-18; IC 5-14-1.5-3.7

Amends IC 5-1-3-1; IC 5-1-3-2; IC 5-1-14-1.5; IC 5-14-1.5-3.5; IC 5-14-1.5-3.6; IC 6-9-38-9; IC 8-1-2.2-31

Allows a member of a governing body of a political subdivision to participate in a meeting electronically subject to the following: (1) Requires the governing body to adopt a written policy establishing procedures for electronic participation. (2) Requires the technology to permit simultaneous communication between members and the public to attend and observe the proceedings. (3) Requires at least 50% of the members to be physically present at the meeting site. (4) Allows a member participating electronically to be counted for quorum purposes. (5) Provides that a member participating electronically may participate in a final action taken by the governing body only if the member can be seen and heard. Exempts governing bodies of state agencies that have a majority of members with disabilities from certain attendance requirements. Provides that if a statute requires a manual signature for attesting or authenticating an obligation issued by certain state and local public entities, an electronic signature has the same force and effect as a manual signature. Adds provisions applicable to state and local public agencies when a state or local disaster emergency is declared. Makes stylistic changes.

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NEW LAWS AFFECTING TOWNSHIPS

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**Public Law 75-2021, Senate Enrolled Act 218 – Effective Upon Passage
Township Homeless Assistance**

Adds IC 5-20-10; IC 12-20-28-4; IC 35-31.5-2-149.5; IC 35-45-17.1

Amends IC 12-20-17-4; IC 35-43-2-2

Repeals IC 35-31.5-2-132.7; IC 35-31.5-2-225; IC 35-31.5-2-257.5; IC 35-45-17

Establishes the low barrier homeless shelter task force. Beginning July 1, 2022: (1) allows a township trustee to place a homeless individual temporarily in a county home or provide temporary township assistance; and (2) requires the township trustees within a county to collaborate and prepare a list of public and private resources available to the homeless population that is distributed and published on the county's Internet web site, if the county has a web site, not later than March 1 of each year. Provides that a person commits the offense of criminal trespass if: (1) the person, who does not have a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is designated by a municipality or county enforcement authority to be an unsafe building or premises; or (2) the person knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be an unsafe building or premises; unless the person has the written permission of the owner, the owner's agent, an enforcement authority, or a court to come onto the property for purposes of performing maintenance, repair, or demolition. Provides that an individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor. Defines "harasses". Repeals the chapter concerning panhandling.

**Public Law 152-2021, Senate Enrolled Act 332 – Effective July 1, 2021.
Publication of Notice by Political Subdivisions**

Adds IC 5-3-5;

Amends IC 5-3-1-2; IC 6-1.1-23.5-10; IC 6-9-3-3.5; IC 8-10-5-1; IC 8-14-9-6; IC 10-18-2-9; IC 10-18-2-19; IC 10-18-3-2; IC 10-18-3-3; IC 10-18-4-10; IC 13-26-2-2.5; IC 13-26-2-6; IC 13-26-5-6.5; IC 14-26-8-7; IC 14-28-4-21; IC 14-33-2-12; IC 14-33-10-2; IC 14-33-16-5; IC 14-33-16.5-6; IC 14-33-17-7; IC 14-34-6-7; IC 14-34-6-11; IC 20-23-5-9; IC 20-23-6-3; IC 20-23-6-5; IC 20-23-6-5.5; IC 20-23-10-6; IC 20-25-5-13; IC 32-24-1-7; IC 32-24-2-8; IC 32-29-7-3; IC 3455-6-9; IC 36-1-12.5-5; IC 36-1.5-4-7; IC 36-2-4-8; IC 36-7-9-25; IC 36-10-4-5; IC 36-10-11-22; IC 36-11-9-5

Allows a political subdivision, when required by statute to publish a notice two or more times, to make the first publication of notice in a newspaper and any subsequent publications of the notice on the official web site of the political subdivision. Requires the political subdivision or contractor that maintains the political subdivision's official web site to provide proof of publication of the notice on the official web site. Provides that if, with regard to a sheriff's sale of real property to execute a judgment, the sheriff is not able to procure publication of the notice in a newspaper of general circulation within the county, the sheriff may publish the notice on the Internet web site of each county where the real estate is located (instead of dispensing with the publication of notice entirely).

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NEW LAWS AFFECTING TOWNSHIPS
(Continued)

**Public Law 162-2021, Senate Enrolled Act 409 – Effective July 1, 2021
Township Matters**

Amends IC 12-7-2-24.9; IC 12-7-2-192.4; IC 12-7-2-192.5; IC 12-13-16-10; IC 12-20-5.5-1; IC 12-20-5.5-3; IC 12-20-28-3; IC 23-14-68-3; IC 23-14-69-3; IC 36-6-4-13; IC 36-9-3-11

Makes changes to the information required in the township's annual report. Requires the township trustee to annually certify and note on the township budget submitted to the department of local government finance's computer gateway that the township's uniform written standards for township assistance have been filed with the board of county commissioners. Allows a township trustee to be appointed as a director of a county building authority. Provides that a township is not required to publish the portion of its annual abstract of receipts and expenditures that provides statements of: (1) receipts, showing their source; and (2) expenditures, showing the combined gross payment, according to classification of expense, to each person. Provides that the abstract must state that a complete abstract containing the statements described in (1) and (2) is filed with and available for public inspection in the county auditor's office. Aligns the township trustee's maintenance duties regarding township cemeteries with the township trustee's maintenance duties as to other cemeteries maintained by the township.

Additional Public Laws affecting Townships passed during 2021 session:

P.L. 165	HB 1001	State Budget
P.L. 166	HB 1002	Civil Immunity Related to COVID-19
P.L. 38	HB 1271	Department of Local Government Finance
P.L. 1	SB 1	Civil Immunity Related to COVID-19

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