

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions

FROM: Dan Jones, Budget Division Assistant Director 

RE: Procedures for the Establishment of Cumulative Funds

DATE: June 2, 2010

This memorandum applies to the following cumulative funds established under IC 6-1.1-41 and supersedes all previous cumulative fund memoranda.

<u>Fund</u>	<u>Statutory Authority</u>
Cumulative Voting System Fund	IC 3-11-6-1
Cumulative Channel Maintenance Fund	IC 8-10-5-17
Cumulative Bridge Fund	IC 8-16-3
Major Bridge Fund	IC 8-16-3.1
Airport Cumulative Fund	IC 8-22-3-25
Cumulative Levee Fund (Vanderburgh Co.)	IC 14-27-6-48
Cumulative Improvement Fund	IC 14-33-21
Cumulative Hospital Sinking Fund	IC 16-22-4
Cumulative Hospital Fund	IC 16-22-5
Cumulative Fire Fund	IC 36-8-14
Cumulative Transportation Fund	IC 36-9-4-48
Cumulative Courthouse Fund	IC 36-9-14
Cumulative Capital Development (County Unit)	IC 36-9-14.5
Cumulative Jail Fund	IC 36-9-15
Cumulative Capital Development (Municipality)	IC 36-9-15.5
Cumulative Building, Sinking, or Capital Improvement Fund	IC 36-9-16-5
Cumulative General Improvement Fund	IC 36-9-17-5
Cumulative Township Vehicle and Building Fund	IC 36-9-17.5
Cumulative Building Fund for Municipal Sewers	IC 36-9-26
Cumulative Drainage Fund	IC 36-9-27-100
Cumulative Park Fund (County and Municipality)	IC 36-10-3-21
Cumulative Park Fund (Certain Cities)	IC 36-10-4-36
Township Cumulative Park Fund	IC 36-10-7.5-19
Cumulative Hospital (Municipality)	IC 16-23-1-40

In addition to complying with the budget, tax rate, and tax levy requirements of IC 6-1.1-17, the following steps must be taken when establishing a cumulative fund or increasing the rate of an

established fund. If the establishment is not in compliance with IC 6-1.1-41 and this memorandum, a tax may not be levied in the ensuing year.

STEP 1: PUBLICATION OF NOTICE TO TAXPAYERS

If the appropriate political subdivision decides to levy a cumulative fund, its adopting fiscal body shall hold a public hearing on a proposal to establish the fund rate. A Notice to Taxpayers, describing the tax levy to be imposed (See Appendix "A"), shall be published two (2) times, at least seven (7) days apart, with the first publication being at least ten (10) days before the public hearing and the second at least three (3) days before the public hearing in accordance with IC 5-3-1-2.

The notice shall be published in two (2) newspapers, if available, in accordance with IC 5-3-1-4 (See Appendix "B"). If the fund is for Cumulative Voting System (IC 3-11-6) or Cumulative Channel Maintenance (IC 8-10-5-17), notice of the proposal and the public hearing shall also be posted in three (3) public places within the political subdivision.

STEP 2: PUBLIC HEARING & ADOPTION OF ORDINANCE/RESOLUTION

The adopting body shall conduct a public hearing on the proposed cumulative fund on the date, time, and location as indicated in the Notice to Taxpayers. At this hearing, taxpayers of the affected taxing district(s) have the right to be heard. Upon completion of the public hearing, the adopting body must pass an ordinance/resolution (See Appendix "C") adopting the proposed cumulative fund as presented or at a lesser rate.

STEP 3: SUBMISSION TO DLGF

The fiscal officer of the political subdivision shall submit the adopted ordinance/resolution on behalf of the adopting body to the Department of Local Government Finance ("Department") for approval. The following must be submitted to the Department:

- Procedure Checklist (See Appendix "D")
- Ordinance/Resolution of Adopting Body
- Proofs of Publication (and proofs of posting, if required) of Notice to Taxpayers

*The above documentation must be filed with the Department on or before **August 2** of the immediate preceeding year to levy the rate for the ensuing year. (Documentation must be postmarked no later than August 2. Although documentation is required to be submitted before August 2, because August 1 falls on a Sunday in 2010, the deadline is extended to the next business day.)*

STEP 4: REVIEW BY DLGF

The cumulative fund proposal will be reviewed by the Department for completeness. If the proposal contains errors or proper procedure is not followed, the packet will be returned to the fiscal officer of the adopting unit for correction, providing that the time constraints outlined in Step 3 can be met.

STEP 5: PUBLICATION OF NOTICE OF SUBMISSION

The Department shall require that a Notice of Submission be given to affected taxpayers. This notice will be prepared by the Department and mailed to the taxing unit. The taxing unit shall publish the Notice of Submission one (1) time in two (2) newspapers. If only one (1) newspaper is published in a political subdivision, publication in that newspaper alone is sufficient. (If the fund is Cumulative Voting System (IC 3-11-6) or Cumulative Channel Maintenance (IC 8-10-5), the notice shall also be posted in three (3) public places in the political subdivision.) Publication of this Notice begins a thirty (30) day remonstrance period.

STEP 6: NO TAXPAYER OBJECTING PETITIONS, SUBMISSION TO DLGF

If the required number of taxpayers do not file an objecting petition by the end of the thirty (30) day remonstrance period, the adopting unit shall forward the proof of publication of the Notice of Submission and proofs of posting (if required) to the Department along with the County Auditor's Certificate of No Objection (See Appendix "E").

It is the responsibility of the adopting taxing unit to secure a Certificate of No Objection from the County Auditor. Proofs of publication of the Notice of Submission must be provided to the Auditor in order to verify the proper time for filing objections has passed.

OBJECTING PETITIONS

Taxpayers who are affected by the proposed cumulative fund may file a petition setting forth their objections to the proposed rate with the County Auditor not later than noon by the end of the required thirty (30) day remonstrance period. There are two exceptions to the thirty (30) day remonstrance period: the Cumulative Building and Capital Improvement Fund (IC 36-9-16-5) and the Cumulative Building for Hospitals Fund (IC 16-22-5-4). These two funds only require a ten (10) day remonstrance period. Pursuant to IC 6-1.1-41, the number of signatures required for a valid objecting petition is specific to each type of cumulative fund as follows:

<u>Cumulative Fund</u>	<u>Statutory Authority</u>	<u>Minimum # of Taxpayers</u>
Cumulative Voting System Fund	IC 3-11-6-1	100
Cumulative Channel Maintenance Fund	IC 8-10-5-17	10
Cumulative Bridge Fund	IC 8-16-3	10
Major Bridge Fund	IC 8-16-3.1	10
Airport Cumulative Fund	IC 8-22-3-25	50
Cumulative Levee Fund (Vanderburgh Co.)	IC 14-27-6-48	10
Cumulative Improvement Fund	IC 14-33-21	10
Cumulative Hospital Sinking Fund	IC 16-22-4	20
Cumulative Hospital Fund	IC 16-22-5	25
Cumulative Fire Fund	IC 36-8-14	10
Cumulative Transportation Fund	IC 36-9-4-48	10
Cumulative Courthouse Fund	IC 36-9-14	50
Cumulative Capital Development (County Unit)	IC 36-9-14.5	50
Cumulative Jail Fund	IC 36-9-15	50
Cumulative Capital Development (Municipality)	IC 36-9-15.5	50
Cumulative Building, Sinking, or Capital Improvement Fund	IC 36-9-16-5	50

Cumulative General Improvement Fund	IC 36-9-17-5	50
Cumulative Township Vehicle and Building Fund	IC 36-9-17.5	50
Cumulative Building Fund for Municipal Sewers	IC 36-9-26	50
Cumulative Drainage Fund	IC 36-9-27-100	50
Cumulative Park Fund (County and Municipality)	IC 36-10-3-21	30
Cumulative Park Fund (Certain Cities)	IC 36-10-4-36	10
Township Cumulative Park Fund	IC 36-10-7.5-19	30
Cumulative Hospital (Municipality)	IC 16-23-1-40	10

The County Auditor shall immediately certify the objecting petition(s) to the Department by verifying:

- a) the taxpayers signing the petition reside within the taxing district(s) where the proposed cumulative fund will be levied;
- b) that the proper number of qualified signatures appear on the petition; and
- c) the petition(s) was filed within the proper number of days after the publication of the Notice of Submission.

If a petition is certified by the County Auditor to the Department, the Department shall fix a date for hearing within a reasonable time after receipt. Notice of the hearing, under the signature of the Commissioner of the Department, shall be given to the County Auditor and the first ten (10) taxpayers whose names appear on the petition at least five (5) days before the date of the hearing. A hearing will be conducted in the County by a hearing officer of the Department at which time all affected taxpayers have the right to be heard. Testimony will be accepted from those in opposition as well as those in favor. The hearing officer(s) will submit a report on the hearing to the Commissioner. The Department shall certify approval, disapproval, or modification of the proposal to the County Auditor. The action of the Department with respect to the proposed levy is final. In years following the year of adoption and pursuant to IC 6-1.1-41-12, taxpayers of the taxing district(s) where the rate is levied may file with the County Auditor a petition for reduction or revision of the cumulative fund levy. Such petitions must be filed on or before August 1 for the next ensuing year.

STEP 7: CUMULATIVE FUND IS LEVIED

The approved cumulative fund may be levied beginning with the first annual tax levy after approval or the year as stated in the Department approving order. *In most cases, the cumulative fund does not expire and may be levied from year-to-year as long as the levy is advertised annually with the annual budget or is not limited by the establishing ordinance/resolution.*

For Cumulative Capital Development Funds, the fiscal body may specify in its establishing resolution the rates for year one, year two, year three, and thereafter. This method will allow for the increasing rates without the unit having to reestablish each of the first three years of the fund. However, the unit must clearly state the increasing rates in its resolution and publications (See Appendix “F” and Appendix “G”).

If the appropriate fiscal body for a given calendar year reduces the cumulative fund rate and wishes to increase the rate in subsequent years, the fund must again be established and

presented to taxpayers. The fund must also be reestablished if the use of the cumulative fund is changed.

The tax rate may not exceed the rate as specified by the statute authorizing the fund. The Department will apply the rate cap calculations to all cumulative funds as listed in this memorandum. The maximum property tax rate levied must be adjusted each time a reassessment or annual adjustment of property takes effect. When a cumulative fund is established, the Department order will reflect the (statutory) rate adopted by the taxing unit. The Budget Order will reflect the cap rate adjustment pursuant to IC 6-1.1-18.5-9.8.

GENERAL

Taxes collected shall be deposited in a specific fund and may only be used for the purposes as stated in the statute and/or the ordinance/resolution as adopted. All funds must be appropriated before expenditure. The Department must approve all appropriations, except for the Cumulative Bridge Fund. Appropriations may be included in the political subdivision's annual budget or may be established by additional appropriation.

If the political subdivision establishing the fund:

- a) decides that the purposes for which the fund was established have been accomplished or no longer exist; or
- b) rescinds the tax levy for the fund

the governing body establishing the fund for the political subdivision may transfer the balance in the cumulative fund to the General Fund of the unit. The money in a cumulative fund does not revert to the General Fund at the end of the fiscal year.

Questions regarding this memorandum or matters pertaining to the establishment of a cumulative fund should be directed to Dan Jones, Assistant Director of the Budget Division via phone at (317) 232-0651, e-mail at djones@dlgf.in.gov, or fax at (317) 232-8779.

APPENDIX "A"

NOTICE TO TAXPAYERS OF HEARING ON PROPOSED
CUMULATIVE _____ FUND
(Name of Fund)

Notice is hereby given the taxpayers of _____,
(Name of Unit)
_____, County, Indiana, that the _____
(County Name) (Name of Adopting Body)
will consider at _____
(Location of Meeting)
at _____ o'clock am/pm on _____, 2____, the establishment of
(Time) (Day and Month) (Year)
a Cumulative _____ Fund under the provisions of Indiana
Code (Name of Fund)

_____ for the purposes as follows:
(Code Citation)

{Unit may set out selective uses as provided by the establishing statute or the unit may state "For all uses as set out in IC _____"}(Do not publish this statement "as is".)

The tax will be levied on all taxable real and personal property within the taxing district and will not exceed \$ _____ per \$100 of assessed valuation. The proposed fund will be levied
(Adopted Rate)

beginning with taxes due and payable in the year 2____. Taxpayers appearing at such hearing shall have the right to be heard thereon. The proposal for establishment of the Cumulative _____ Fund is subject to approval by the Department of Local
(Name of Fund)

Government Finance, who will require a Notice of Submission to be given to the taxpayers by publication. After the publication of the Notice of Submission, _____ or more taxpayers in the taxing district may file a petition with the County Auditor not later than thirty (30) days after publication, setting forth their objections to the proposed levy.

Dated this _____, day of _____, 2____

(Adopting Body)

APPENDIX "B"

PUBLICATION REQUIREMENTS IC 5-3-1-4

Sec. 4. (a) Whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, they shall publish the notice in two (2) newspapers published in the political subdivision.

(b) This subsection applies to notices published by county officers. If there is only one (1) newspaper published in the county, then publication in that newspaper alone is sufficient.

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication shall be made in a newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation. The notice shall be posted:

(1) at or near the city or town hall or school administration building; or

(2) at the:

(A) public building where the governing body of the respective city, town, or school corporation meets; or

(B) post office in the municipality or school corporation (or at the bank if there is no post office); if the municipality does not have a city or town hall, or the school corporation does not have an administration building.

(d) This subsection applies to notices published by officers of political subdivisions not covered by subsection (a) or (b), including township officers. If there is only one (1) newspaper published in the political subdivision, then the notice shall be published in that newspaper and if another newspaper is published in the county and circulates within the political subdivision in the other newspaper. If no newspaper is published in the political subdivision, then publication shall be made in a newspaper published in the county and that circulates within the political subdivision.

(e) This subsection applies to a political subdivision, including a city, town, or school corporation. Notwithstanding any other law, if a political subdivision has territory in more than one (1) county, public notices that are required by law or ordered to be published must be given as follows:

(1) By publication in two (2) newspapers published within the boundaries of the political subdivision.

(2) If only one (1) newspaper is published within the boundaries of the political subdivision, by publication in that newspaper and in some other newspaper:

(A) published in any county in which the political subdivision extends; and

(B) that has a general circulation in the political subdivision.

(3) If no newspaper is published within the boundaries of the political subdivision, by publication in two (2) newspapers that:

(A) are published in any counties into which the political subdivision extends; and

(B) have a general circulation in the political subdivision.

(4) If only one (1) newspaper is published in any of the counties into which the political subdivision extends, by publication in that newspaper if it circulates within the political subdivision.

(f) A political subdivision may, in its discretion, publish public notices in a qualified publication or additional newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the political subdivision.

APPENDIX "C"

ORDINANCE/RESOLUTION ESTABLISHING
CUMULATIVE _____ FUND

(Name of Fund)

Under Indiana Code _____
(Code Citation)

BE IT RESOLVED by the _____
(Adopting Body)

of _____, County, Indiana that a need now exists for the establishment
(Name of County)

of a Cumulative _____ Fund for the following purposes:
(Name of Fund)

{Unit may set out selective uses as provided by the establishing statute or the unit may state "For all uses as set out in IC _____" }

BE IT FURTHER RESOLVED that this Board will adhere to the provisions of Indiana Code _____. The proposed fund will not exceed \$ _____ on each \$100 of assessed valuation. Said tax rate will be levied beginning with taxes for 2 _____ payable 2 _____.

BE IT FURTHER RESOLVED that proofs of publication of the public hearing held on the _____ day of _____, 2____, and a certified copy of this resolution be submitted to the Department of Local Government Finance of the State of Indiana as provided by law. Said Cumulative Fund is subject to the approval of the Department of Local Government Finance.

Duly adopted by the following vote of the members of said _____ this _____ day of _____, 2____. (Adopting Body)

AYE

NAY

Attest: _____, Fiscal Officer

APPENDIX "D"

PROCEDURE CHECKLIST

(Submit this form to the Department of Local Government Finance with proof of publication of Notice to Taxpayers and the adopting ordinance/resolution.)

TAXING UNIT: _____ COUNTY: _____

CUMULATIVE FUND: _____

CODE CITATION: IC _____

YEAR TO BE FIRST LEVIED 2 _____ PAY 2 _____

NOTICE TO TAXPAYERS:

1st Publication: _____ in the _____
(Date) (Name of Newspaper)

_____ in the _____
(Date) (Name of Newspaper)

2nd Publication _____ in the _____
(Date) (Name of Newspaper)

_____ in the _____
(Date) (Name of Newspaper)

PUBLIC HEARING HELD ON: _____, 2 _____

ORDINANCE ADOPTED ON: _____, 2 _____

PROPOSED RATE: \$ _____

CONTACT PERSON: _____

MAILING ADDRESS OF UNIT: _____

PHONE NUMBER: _____

E-MAIL ADDRESS(optional) _____

APPENDIX "E"

CERTIFICATE OF NO OBJECTION

I, _____, Auditor of
(Auditor's Name)

_____, County, Indiana, do hereby certify that there were no
(County Name)

remonstrances filed on the proposed Cumulative _____ Fund
(Name of Fund)

as adopted by the _____
(Name of Adopting Body)

on _____, 2_____. Notice of Submission to the Department of Local
(Day/Month) (Year)

Government Finance was published on _____
(Date(s) of Publication)

in the _____ newspaper.
(Name of Newspaper(s))

Dated this _____ day of _____, 2_____.

Auditor

APPENDIX "F" (Sample Ordinance/Resolution for CCD Fund)

ORDINANCE/RESOLUTION ESTABLISHING
CUMULATIVE CAPITAL DEVELOPMENT FUND
UNDER INDIANA CODE _____
(CODE CITATION)

BE IT RESOLVED by the _____
(Adopting Body)
of _____, County, Indiana that a need now exists for the establishment
(Name of County)

a Cumulative Capital Development Fund for the following purposes:

{Unit may set out selective uses as provided by the establishing statute or the unit may state "For all uses as set out in IC _____"}

BE IT FURTHER RESOLVED that this Board will adhere to the provisions of
Indiana Code _____. The proposed fund will not exceed:

\$ _____ per \$100 of assessed valuation beginning with taxes payable in 20 _____,
\$ _____ per \$100 of assessed valuation payable in 20 _____, and
\$ _____ per \$100 of assessed valuation payable in 20 _____ and thereafter, continuing until
reduced or rescinded.

BE IT FURTHER RESOLVED that proofs of publication of the public hearing held
on the _____ day of _____, 2____, and a certified copy of this resolution be
submitted to the Department of Local Government Finance of the State of Indiana as provided by
law. Said Cumulative Fund is subject to the approval of the Department of Local Government
Finance.

Duly adopted by the following vote of the members of said
_____ this _____ day of _____, 2____.
(Adopting Body)

AYE

NAY

Attest: _____, Fiscal Officer

APPENDIX "G" (Sample Notice for CCD Fund)

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED
CUMULATIVE CAPITAL DEVELOPMENT FUND**

Notice is hereby given the taxpayers of _____,
(Name of Unit)
_____, County, Indiana, that the _____ will meet at
(County Name) (Name of Adopting Body)

_____ o'clock am/pm on _____, 2____, at the
(Time) (Month/Day) (Year)

_____ for the establishment of a Cumulative Capital Development
(Location)

Fund under the provisions of Indiana Code _____ for the purposes as follows:
(Cite Citation)

**{Unit may set out selective uses as provided by the establishing statute or the unit may state
"For all uses as set out in IC _____"}**

The tax will be levied on all taxable real and personal property within the taxing district and will not exceed:

\$ _____ per \$100 of assessed valuation payable in 20____,
\$ _____ per \$100 of assessed valuation payable in 20____, and
\$ _____ per \$100 of assessed valuation payable in 20____, and thereafter,

continuing until reduced or rescinded. Taxpayers appearing at such hearing shall have the right to be heard thereon. The proposal for establishment of the Cumulative Capital Development Fund is subject to approval by the Department of Local Government Finance, who will require a Notice of Submission to be given to the taxpayers by publication. After the publication of the Notice of Submission, fifty (50) or more taxpayers in the taxing district may file a petition with the County Auditor not later than thirty (30) days after publication, setting forth their objections to the proposed levy.

Dated this _____, day of _____, 2____

(Adopting Body)

