

STATE OF INDIANA

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MEMORANDUM

TO: County Auditors and County Council Members

FROM: Cheryl A.W. Musgrave, Commissioner *CWM*
Timothy J. Rushenberg, General Counsel *TJR*

DATE: June 2, 2008

SUBJECT: Procedures for Fixing and Reviewing Budgets, Tax Rates, and Tax Levies

1. The purpose of this memorandum is to inform County Auditors of the changes made to Indiana Code chapter 6-1.1-17, *Procedures for Fixing and Reviewing Budgets, Tax Rates, and Tax Levies*, in House Enrolled Act (HEA) 1001 (P.L. 146-2008), HEA 1125 (P.L. 131-2008), and HEA 1293 (P.L. 144-2008). This memorandum is an executive summary of the changes from the 2008 legislative session. The items in **bold** are of particular importance or include a change in the law. The paragraphs with an asterisk (*) indicate a significant change to the law.

2. Exclusion or reduction of assessed value of tangible property. HEA 1293, Section 39 amended IC 6-1.1-17-0.5, **effective on March 19, 2008.**

a. The **county auditor may reduce a taxing unit's assessed value** only to enable the taxing unit to absorb the effects of reduced property tax collections in the immediately following calendar year that are expected to result from any or a combination of the following:

(1) Successful appeals of the assessed value of property located in the taxing unit.

(2) **Deductions under IC 6-1.1-12-37** [homestead credit; standard deduction] that result from the granting of applications for the homestead credit for the calendar year under IC 6-1.1-20.9-3 [application to claim homestead credit; December 31 filing deadline instituted] **or IC 6-1.1-20.9-3.5** [filing for credit on sales disclosure form (SDF)] **after** the county auditor certifies assessed value.

(3) **Deductions that result from the granting of applications for deductions for the calendar year under IC 6-1.1-12-44** [filing for solar energy deduction, wind power device, hydroelectric power device, geothermal device deductions on SDF] **after** the county auditor certifies assessed.

b. **By December 31 of each year**, the county auditor must send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision

of the county and to the Department. The certified statement must list any adjustments to the amount of the reduction above and the assessed value information submitted in IC 6-1.1-17-1 that are necessary as the result of processing homestead credit applications and deduction applications that are filed after the county auditor certifies assessed value as described in this section.

c. **The amount of the reduction in a taxing unit's assessed value for a calendar year may not exceed two percent (2%) of the assessed value of tangible property subject to assessment in the taxing unit for a calendar year.**

d. Section 48 states that IC 6-1.1-17-0.5, "as added by this act," **applies only to property taxes first due and payable "after 2008" (i.e., pay-2009 and thereafter).**

2. Assessed valuation and taxes. HEA 1001, Section 146 amended IC 6-1.1-17-1, **effective on July 1, 2008.**

a. The law still requires, **on or before August 1 of each year**, the county auditor to send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the Department. This statement must contain:

(1) information concerning the assessed valuation in the political subdivision for the next calendar year;

(2) an estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current calendar year;

(3) the current assessed valuation as shown on the abstract of charges;

(4) the average growth in assessed valuation in the political subdivision over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the Department;

(5) the amount of the political subdivision's assessed valuation reduction determined under IC 6-1.1-17-0.5;

(6) **for counties with taxing units that cross into or intersect with other counties, the assessed valuation as shown on the most current abstract of property [added by HEA 1001-2008]; and**

(7) any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

3. Notice to taxpayers of estimated budget; hearing; township assistance. HEA 1001, Section 147 amended IC 6-1.1-17-3, **effective as of March 19, 2008**, to change the following:

a. The first mailing date of the County Auditor's statement was changed from August 10, 2009 to **October 1, 2010**.

b. Places an **expiration date of January 1, 2009** on the requirement that the county is to adopt a county budget with the Department's certification of a tax rate sufficient to raise the levy necessary to pay for the cost of child services payable from the family and children's fund, and the cost of children's psychiatric residential treatment services from the children's psychiatric residential treatment services fund.

c. Eliminates reference to the county board of tax and capital projects review.

d. Retains the county board of tax adjustment (TAB).

4. Filing with County Fiscal Body of Unit's Estimated Tax Rate and Levy. HEA 1001, Section 148, added a *new section*, IC 6-1.1-17-3.5, **effective on July 1, 2008**.

a. **This section does *not* apply to civil taxing units located in a county where the TAB reviews budgets, rates, and levies; *or* where a proposed budget and levy is approved under IC 6-1.1-17-20 [city, town, county fiscal body review and approval of appointed governing board's budget and levy for unit where the proposed budget is more than the result of: the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the following calendar year; minus one (1)] or IC 36-3-6-9 [Marion County city-county council reviews and adopts budgets and levies of specific boards].**

b. This section applies to a **civil taxing unit *other than a county***. Thus, this provision applies to libraries, cities, towns, townships, and other entities that have the power to impose ad valorem property taxes. If such a civil taxing unit imposes property taxes due and payable in the following calendar year (e.g., pay-2009), the **civil taxing unit must file with the county fiscal body** (e.g., county council):

(1) a statement of the proposed or estimated tax rate and levy for the civil taxing unit for the following budget year; *and*

(2) a copy of the civil taxing unit's proposed budget for the following budget year.

c. In the case of a civil taxing unit located in more than one (1) county, the civil taxing unit must file the information above (i.e., statement of proposed rate and levy; and copy of unit's proposed budget) with the county fiscal body in which the greatest part of the civil taxing unit's net assessed valuation is located.

d. A civil taxing unit must file the information above **at least fifteen (15) days** before the civil taxing unit fixes its tax rate and tax levy and adopts its budget.

e. A county fiscal body must:

(1) review any proposed or estimated tax rate or tax levy or proposed budget filed by a civil taxing unit with the county fiscal body; *and*

(2) issue a nonbinding recommendation to a civil taxing unit regarding its proposed or estimated tax rate or tax levy or proposed budget.

f. The recommendation by the county fiscal body above must include a comparison of any increase in the civil taxing unit's budget or tax levy to:

(1) the average increase in Indiana nonfarm personal income for the preceding six (6) calendar years and the average increase in nonfarm personal income for the county for the preceding six (6) calendar years; and

(2) increases in the budgets and tax levies of other civil taxing units in the county.

g. **The Department must provide each county fiscal body with the most recent available information concerning increases in Indiana nonfarm personal income and increases in county nonfarm personal income.**

5. Fixing budget, tax rate, and tax levy; meetings. HEA 1001, Section 149 amended IC 6-1.1-17-5, **effective as of March 19, 2008.** The amended section **still requires the officers of political subdivisions** (e.g., county, township, city, town, separate municipal corporation, special taxing district, or school corporation) **to meet each year to fix the budget, tax rate, and tax levy for the following budget year as follows:**

a. The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000), not later than:

(1) the time required in IC 6-1.1-17-5.6(b) [**before February 1 of each year**, the officers of the school corporation must meet to fix the budget for the school corporation for the following budget year, with notice given by the same officers. However, if a resolution is adopted to cease using a school year budget year and return to using a calendar year budget year, the officers must meet to fix the budget for the ensuing budget year before September 30]; or

(2) for budget years beginning *before* July 1, 2010, September 30 if an abovementioned resolution is in effect.

b. The proper officers of **all other political subdivisions, on or before September 30.**

c. The governing body of each school corporation, not later than the time required under IC 6-1.1-17-5.6(b) [**before February 1 of each year**] for **budget years beginning after June 30, 2010.**

6. School corporation; certain cities; choice of budget year. HEA 1001, Section 150 amended IC 6-1.1-17-5.6, **effective as of March 19, 2008.**

a. **For budget years beginning after June 30, 2010, this section applies to all school corporations.**

b. **Beginning in 2010, each school corporation must adopt a budget that applies from July 1 of the year through June 30 of the following year.** In the initial budget adopted by a school corporation in 2010, the first six (6) months of that initial budget must be consistent with the last six (6) months of the budget adopted by the school corporation for calendar year 2010.

c. **Before February 1 of each year,** the officers of the school corporation shall meet to fix the budget for the school corporation for the ensuing budget year, with notice given by the same officers.

7. Review by county board of review; revision. HEA 1001, Section 151 amended IC 6-1.1-17-6, **effective as of March 19, 2008**, to eliminate any reference to the “county board of tax and capital projects review.” **TAB is retained and previous reference to its repeal on January 1, 2009 is eliminated.** The county board of tax and capital projects review board was **eliminated in HEA 1001, Section 801** when IC 6-1.1-29-1.5 [county board of tax and capital projects review; membership; appointment and election]; IC 6-1.1-29-2.5 [composition of review board]; and IC 6-1.1-29.5 [capital projects review chapter] were all repealed, effective March 19, 2008.

8. Multicounty political subdivision; filing of budget, tax levy, and tax rate; jurisdiction. HEA 1001, Section 152 amended IC 6-1.1-17-7, **effective as of March 19, 2008**, to eliminate any reference to the county board of tax and capital projects review, and to retain the county TAB.

9. Maximum aggregate tax rate; inadequacy; recommendations. HEA 1001, Section 153 amended IC 6-1.1-17-8, **effective as of March 19, 2008** to eliminate reference to the county board of tax and capital projects review, and to recognize that IC 20-45-4 [school general fund levy appeal review by TAB or county board of tax and capital projects review board] was repealed in HEA 1001, Section 810, effective on January 1, 2009. This section also retains the county TAB.

10. County board of tax adjustment; duty deadline; failure to act. HEA 1001, Section 154 amended IC 6-1.1-17-9, **effective March 19, 2008**, to eliminate any reference to the county board of tax and capital projects review, and to retain the county TAB.

11. Maximum aggregate tax rate, exceeding; procedure. HEA 1001, Section 155 amended IC 6-1.1-17-10, **effective as of March 19, 2008**, to eliminate any reference to the county board of tax and capital projects review, and to retain the county TAB.

12. Final budget, tax rate, and tax levy; appeal and review. HEA 1001, Section 156 amended IC 6-1.1-17-11, **effective as of March 19, 2008**, to eliminate any reference to the county board of tax and capital projects review, and to retain the county TAB.

13. Notice to taxpayers of final tax rates. HEA 1001, Section 157 amended IC 6-1.1-17-12, **effective as of March 19, 2008**, to eliminate any reference to the county board of tax and capital

projects review, and to retain the county TAB. This section still states that, as soon as the budgets, tax rates, and tax levies are approved or modified by the county TAB, the county auditor must, within fifteen (15) days, prepare a notice of the tax rates to be charged on each one hundred dollars (\$100) of assessed valuation for the various funds in each taxing district. The notice shall also inform the taxpayers of the manner in which they may initiate an appeal of the TAB's action.

14. Township assistance tax rate; reduction below necessary rate; appeal by county auditor. HEA 1001, Section 158 amended IC 6-1.1-17-14, **effective as of March 19, 2008**, to eliminate any reference to the county board of tax and capital projects review. Additionally, the county auditor's initiation of an appeal to the Department if the county fiscal body or TAB reduces the **family and children's fund tax rate or children's psychiatric residential treatment services fund tax rate** below the rate necessary to collect the levy recommended by the Department of child services, is **for property taxes first due and payable before January 1, 2009 (i.e., 2007-pay-2008)**.

15. Appeal by political subdivisions to raise tax rate or tax levy. HEA 1001, Section 159 amended IC 6-1.1-17-15, **effective as of March 19, 2008**, to eliminate any reference to the county board of tax and capital projects review, and to retain the county TAB. This section still allows a political subdivision to appeal to the Department for an increase in its tax rate or tax levy as fixed by the county TAB or the county auditor within ten (10) days after publication of the notice of the tax rates to be charged on each one hundred dollars (\$100) of assessed valuation for the various funds in each taxing district.

16. Review by Department; public hearing; judicial review. HEA 1001, Section 160 amended IC 6-1.1-17-16, **effective on January 1, 2009**, as discussed below:

a. **to eliminate reference to IC 20-45, the school general fund levies chapter in the Indiana Code.** The reference is in regards to the Department's authority to increase a political subdivision's budget by fund, tax rate, or tax levy to an amount which exceeds the amount originally adopted by the political subdivision.

b. With regards to the **school general fund levies in IC 20-45**, HEA 1001, Section 807, which is **effective on January 1, 2009**, **repeals the following sections:** IC 20-45-1-3 [definition of "adjusted target property tax rate"]; IC 20-45-1-4 [definition of "adjusted tuition support levy"]; IC 20-45-1-7 [definition of "emergency relief"]; IC 20-45-1-8 [definition of "equalization tax rate"]; IC 20-45-1-9 [definition of "equalization tax rate limit"]; IC 20-45-1-10 [definition of "equalized levy"]; IC 20-45-1-11 [definition of "excessive tax levy"]; IC 20-45-1-13 [definition of "foundation amount revenue"]; IC 20-45-1-15 [definition of "maximum permissible tuition support levy"]; IC 20-45-1-16 [definition of "new facility adjustment"]; IC 20-45-1-17 [definition of "previous year property tax rate"]; IC 20-45-1-18 [definition of "target property tax rate"]; IC 20-45-1-20 [definition of "tax rate floor"]; IC 20-45-1-21 [definition of "total assessed value"]; IC 20-45-1-22 [definition of "tuition support levy"]; **IC 20-45-2 [school general fund property tax levy general provisions]; and IC 20-45-3 [school tuition support levy for school general fund provisions].**

c. HEA 1001, Section 810, **repealed other school general fund levy sections, effective on January 1, 2009**: IC 20-45-1-7 [definition of “emergency relief”]; IC 20-45-4 [review by TAB or county auditor of excess levy appeals; school may appeal to Department emergency relief]; **IC 20-45-5 [new facility appeals, control board recommendation]; IC 20-45-6 [emergency relief appeals; “controlled schools”; excess levy for shortfall appeals].**

d. IC 6-1.1-17-16(c) still requires the Department to hold a public hearing in counties before the Department revises, reduces, or increases a political subdivision’s budget by fund, tax rate, or tax levy.

e. IC 6-1.1-17-16(j) still requires the Department to annually review the budget by fund of each school corporation before April 1 of each year.

f. IC 6-1.1-17-16(k) still requires the Department to hold its budget hearing at least ten (10) days after publication of the TAB rates in IC 6-1.1-17-12.

17. Increase in tax rate and levy by Department. HEA 1001, Section 161 amended IC 6-1.1-17-17, **effective as of January 1, 2009**, to eliminate references to IC 6-1.1-19 [public school corporation tax controls] and IC 20-45 [school general fund levies] with regards to this section, which allows the Department to increase the tax rate and tax levy of a political subdivision for certain reasons, such as to pay the interest or principal upon an outstanding obligation of the political subdivision.

18. Conflicting Provisions. HEA 1001, Section 162 amended IC 6-1.1-17-19, **effective on January 1, 2009**, to eliminate references to IC 6-1.1-19 [public school corporation tax controls] and IC 20-45 [school general fund levies].

*19. Budget Review for Appointed Boards. HEA 1001, Section 163 amended IC 6-1.1-17-20, **effective as of March 19, 2008**. This amendment made changes that subjects appointed boards, (i.e., library boards) to greater budget scrutiny. IC 6-1.1-17-20 **applies to each governing body of a taxing unit that is not comprised of a majority of officials who are elected to serve on the governing body** (i.e., appointed boards); **and** if the percentage increase in the **proposed budget** for the taxing unit for the following calendar year is more than the result of:

(1) **the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the following calendar year; minus**

(2) **one (1).**

b. **IC 6-1.1-17-20 does *not* apply to a school corporation**, which is specifically excluded by IC 6-1.1-17-20(b), or any entity whose levies are subject to review and modification by a city-council council (e.g., airport authority operating under IC 8-22-3 (local airport authority)).

c. **IC 6-1.1-17-20(c) still excludes public libraries.** However, it applies to other taxing units that have an assessed valuation entirely contained within a city or town or originally established by a city or town. For such taxing units, the governing body must submit its proposed budget

and property tax levy to the city or town fiscal body (whatever is applicable). The proposed budget and levy shall be submitted at least fourteen (14) days before the city or town fiscal body is required to hold budget approval hearings.

d. In IC 6-1.1-17-20(d), **the sentence that excluded public libraries from this provision in IC 6-1.1-17-20(d) was removed, effective as of March 19, 2008.** Thus, for a **public library**, and for taxing units that do not meet the aforementioned criteria (e.g., assessed value is not entirely within a city or town; nor was the taxing unit originally established by a city or town), the governing body of the taxing unit (e.g., library board) must submit its proposed budget and property tax levy to the **county fiscal body** in the county where the taxing unit has the most assessed valuation. The proposed budget and levy must be submitted at least fourteen (14) days before the county fiscal body is required to hold budget approval hearings.

e. IC 6-1.1-17-20(e), (f) were deleted, which applied to review of a public library's budget.

f. The fiscal body of the city, town, or county (whichever applies) must review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

*20. Bonds and Lease Rental Agreements for Appointed Boards. HEA 1001, Section 164 added a **new section** to the Indiana Code, IC 6-1.1-17-20.5, **effective on July 1, 2008. This new section applies to appointed boards** (e.g., library board).

a. IC 6-1.1-17-20.5 does *not* apply to taxing units whose tax levies are subject to review and modification by a city-county council under IC 36-3-6-9 (e.g., airport authority operating under IC 8-22-3 (local airport authority)), or where a majority of the governing body of the taxing unit is elected.

b. If the assessed valuation of a taxing unit is entirely contained within a city or town; *or* if the taxing unit was originally established by the city or town, the governing body may *not* issue **bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the city or town fiscal body.**

c. For those mostly appointed boards that do *not* have an assessed value entirely within a city or town, or were originally established by a city or town, **such taxing units may *not* issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the county fiscal body in the county where the taxing unit has the most net assessed valuation.**

21. Honey Creek Fire Protection District. HEA 1125, Section 69, **effective as of March 24, 2008**, applies specifically to the Honey Creek fire protection district (FPD) located in Vigo County. **Before September 20, 2008**, Honey Creek FPD may appeal to the Department for relief from the levy limits imposed by IC 6-1.1-18.5 for property taxes first due and payable in 2009.

a. In the appeal, the FPD must:

(1) state that the district will be unable to carry out the governmental functions committed to the district by law unless the appeal is approved; and

(2) present evidence that the district is an eligible district (i.e., the Honey Creek FPD).

b. The maximum increase in Honey Creek FPD's levy allowed is two hundred twelve thousand five hundred dollars (\$212,500).

c. To account for the change in the definition of "assessed value" (i.e., removal of tuition support levy [IC 20-45-3] for purposes of calculating a budget, rate, or levy, effective Jan. 1, 2009), the taxable assessed value to be used is the product of the actual taxable assessed value multiplied by three (3).

d. The Department must process such an appeal in the same manner it processes appeals under IC 6-1.1-18.5-12 (i.e., if Honey Creek FPD cannot carry out its governmental functions for 2009). For purposes of computing Honey Creek's FPD ad valorem property tax levy for taxes first due and payable in 2010, its maximum permissible ad valorem property tax levy for property taxes first due and payable in 2009 under STEP ONE of IC 6-1.1-18.5-3(a) or STEP ONE of IC 6-1.1-18.5-3(b) includes the amount of any increase in the district's levy approved for property taxes first due and payable in 2009.

22. If there are any questions about this memorandum, please contact Assistant Budget Division Director Dan Jones at (317) 232-3777, or djones@dlgf.in.gov.