

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

EXAMINATION REPORT
OF
COUNTY COUNCIL
SWITZERLAND COUNTY, INDIANA
January 1, 2005 to December 31, 2005



FILED
12/29/2006

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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
President of the County Council	Michael L. Jones	01-01-05 to 12-31-06
President of the Board of County Commissioners	Brian L. Morton H. Craig Bond	01-01-05 to 12-31-05 01-01-06 to 12-31-06



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TO: THE OFFICIALS OF SWITZERLAND COUNTY

We have examined the records of the County Council for the period from January 1, 2005 to December 31, 2005, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Examination Results and Comments. The financial transactions of this office are reflected in the Examination Report of Switzerland County for the year 2005.

STATE BOARD OF ACCOUNTS

November 16, 2006

COUNTY COUNCIL
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EXAMINATION RESULTS AND COMMENTS

SHERIFF COMPENSATION

Our review of the Sheriff's compensation showed the following:

1. Beginning January 1, 2003, Nathan Hughes, Sheriff, collected a \$25 administrative fee authorized by Indiana Code 32-29-7-3. The fee is collected to defray costs incurred by the County attributable to conducting a Sheriff's sale in a proceeding for the foreclosure of a mortgage. Mr. Hughes retained this fee rather than depositing the fee to the County General Fund. The total amount of these fees retained by Mr. Hughes from January 1, 2003 through September 1, 2006, was \$2,975.

Mr. Hughes began depositing the administrative fees into the County General Fund after September 1, 2006.

2. A salary contract was entered into between the County Council and the Sheriff for the year 2006. The salary contract provided for the Sheriff to be paid salary compensation in accordance with Indiana Code 36-2-13-2.8 and to also retain the administrative fee charged for conducting a Sheriff's sale.

During 2006, County Council approved salary compensation for the Sheriff in the amount of \$34,913.

Indiana Code 36-2-13-2.8(c) states in part:

"A county that pays a sheriff's compensation under this section shall pay the sheriff as follows:

- (1) In a county having a population of not more than twenty thousand (20,000), the county must pay the sheriff an annual salary that is equal to at least fifty percent (50%) of the annual minimum salary that would be paid by the state to a full-time prosecuting attorney in the county. . . ."

Indiana Code 33-39-6-5(a) states: "The annual minimum salary paid by the state to a full-time prosecuting attorney described in section 6 of this chapter is equal to the minimum salary of the circuit court judge of the same judicial circuit as the prosecuting attorney."

Indiana Code 33-38-5-6(a) states: "The annual salary of each full-time judge of a circuit . . . court is one hundred ten thousand five hundred dollars (\$110,500) . . ."

Based on the above statutes, the Sheriff was eligible to receive \$55,250 salary compensation during 2006. However Mr. Hughes is not eligible to receive the administrative fees for conducting a Sheriff's sale even if provided for in a salary contract.

We recommended the County Council and the County Sheriff amend their compensation arrangement to comply with a compensation arrangement available in the statutes.

REVENUE SHARING WITH NOT-FOR-PROFIT ENTITIES

The County made revenue sharing distributions from the Riverboat Fund to the following not-for-profit entities:

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EXAMINATION RESULTS AND COMMENTS
(Continued)

- (1) On February 10, 2001, the County Council amended an agreement for the distribution of Riverboat Funds so that 80% of the amount originally designated for townships would be donated to the Switzerland County Fire Chief's Corporation. The Switzerland County Fire Chief's Corporation is a not-for-profit corporation established to distribute riverboat donations to the various volunteer fire companies in Switzerland County. During 2005, \$793,880 was paid to the Switzerland County Fire Chief's Corporation under this agreement.
- (2) Distributions of Riverboat Funds were also made to the Switzerland County Emergency Services and the Switzerland County YMCA in the amounts of \$408,629 and \$124,543, respectively.

Based on the following statutes, not-for-profit entities are not eligible to receive revenue sharing distributions from the Riverboat Fund:

Indiana Code 4-33-13-6(b) regarding wagering taxes states in part: "This chapter does not prohibit the . . . county designated as the home dock of the riverboat from entering into agreements with other units of local government . . . to share the . . . county's part of the tax revenue received under this chapter."

Indiana Code 36-1-2-23 states: "'Unit' means county, municipality, or township."

DONATIONS TO NOT-FOR PROFIT ENTITIES

In 2005, \$267,000 was donated from the Riverboat Fund to various not-for-profit entities without a contract or agreement showing what services the not for profit entity would provide.

Payments made or received for contractual services should be supported by a written contract. Each governmental unit is responsible for complying with the provisions of its contracts. (Accounting and Uniform Compliance Guidelines Manual for Counties, Chapter 1)

Governmental funds should not be donated or given to other organizations, individuals, or governmental units unless specifically authorized by statute. (Accounting and Uniform Compliance Guidelines Manual for Counties, Chapter 1)

DONATIONS/LOAN TO REGIONAL SEWER DISTRICTS

The following items were noted during our review of Riverboat Fund expenditures:

- (1) The County made payments totaling \$89,000 in the years 2004 and 2005 to the Florence Regional Sewer District to provide matching funds for a federal grant.
- (2) The County made a payment of \$15,000 to The East Enterprise Regional Sewer District to provide matching funds for a federal grant.
- (3) The County loaned \$67,000 to The East Enterprise Regional Sewer District. The County Council minutes stated that the payment would be paid back to the County from the collections of delinquent certified sewer accounts.
- (4) The East Enterprise Regional Sewer District and the Florence Regional Sewer District have been in operation for a several years.

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EXAMINATION RESULTS AND COMMENTS
(Continued)

Indiana Code 13-26-7-2 states:

"A local, state, or federal agency or person may advance or give a district money to be used by the district for the following purposes:

- (1) The preparation of a plan for the operation of the district.
- (2) Other purposes of the district until the district is in receipt of revenue from its operations or proceeds from the sale of bonds."

Riverboat Funds are derived from admission taxes and wagering taxes. Indiana Code 4-33-12-6, regarding admission taxes, and Indiana Code 4-33-13-6, regarding wagering taxes, state in part: "Money paid to the unit of government . . . may be used for any legal or corporate purpose of the unit. . . ."

Governmental funds should not be donated or given to other organizations, individuals, or governmental units unless specifically authorized by statute. (Accounting and Uniform Compliance Guidelines Manual for Counties, Chapter 1)

DONATIONS TO COMMUNITY FOUNDATION

Beginning in the year 2006, the County Council approved gaming tax revenue sharing as a method of donating funds to the Switzerland County Community Foundation (Community Foundation). At their meeting on December 7, 2005, the County Council approved two separate gaming tax revenue sharing distributions to the Switzerland County Community Foundation (Community Foundation). According to the County Auditor the distributions were for the following purposes beginning in 2006:

- (1) One percent (1%) of gaming taxes is to be used for operating expenses of the Community Foundation.
- (2) One half percent (.5%) of gaming taxes was to be held by the Community Foundation to be used for infrastructure programs in the unincorporated area known as Florence.

Based on the above information, there is no requirement for the donations to be held as permanent endowment by the Community Foundation.

Indiana Code 36-1-14-1(c) states in part:

". . . the unit may donate . . . riverboat gaming revenue to a foundation under the following conditions: . . .

The foundation agrees to do the following:

- (A) Hold the donation as a permanent endowment.
- (B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit. . . ."

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EXIT CONFERENCE

The contents of this report were discussed on November 16, 2006, with Michael L. Jones, President of the County Council; K. C. Banta, County Commissioner; and Janice Ramsey, Auditor.