

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

AUDIT REPORT  
OF  
BOARD OF COUNTY COMMISSIONERS  
PORTER COUNTY, INDIANA  
January 1, 2010 to December 31, 2010



**FILED**  
10/24/2011



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COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
Auditor	James K. Kopp Robert J. Wichlinski	01-01-10 to 12-31-10 01-01-11 to 12-31-14
Treasurer	Michael Bucko	01-01-10 to 12-31-13
President of the County Council	Daniel Whitten	01-01-10 to 12-31-11
President of the Board of County Commissioners	Robert Harper John Evans	01-01-10 to 12-31-10 01-01-11 to 12-31-11



**STATE OF INDIANA**  
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF PORTER COUNTY

We have audited the records of the Board of County Commissioners for the period from January 1, 2010 to December 31, 2010, 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 Audit Results and Comments. The financial transactions of this office are reflected in the Annual Report of Porter County for the year 2010.

STATE BOARD OF ACCOUNTS

June 30, 2011

BOARD OF COUNTY COMMISSIONERS  
PORTER COUNTY  
AUDIT RESULTS AND COMMENTS

***E-911 FEES COMINGLED INTO ONE FUND***

The County receives money from phone companies for landline and wireless phone fees charged to consumers. These fees are to be deposited in separate funds on the County's records. These fees were all deposited in the same fund under 911 and were not separated as required by Indiana statute. In addition, Indiana Code 36-8-16-14 and Indiana Code 36-8-16.5-41 indicate that specific disbursements can be made from landline fees and wireless fees. With all money comingled into one fund and disbursed from the same fund, we were unable to determine if disbursements were made from the proper fees collected.

Indiana Code 36-8-16-13 states:

"A county treasurer or municipal fiscal officer to whom the enhanced emergency telephone system fees are remitted under section 12 of this chapter shall deposit the fees in a separate fund. The fund shall be known as the \_\_\_\_\_ (insert name of county or municipality) emergency telephone system fund. The county treasurer or municipal fiscal officer may invest money in the fund in the same manner that other money of the county or municipality may be invested. The county treasurer or municipal fiscal officer shall deposit any income earned from such an investment in the fund."

Indiana Code 36-8-16-14 states:

"(a) The emergency telephone system fees shall be used only to pay for:

- (1) except as provided in subsection (c), the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services;
- (3) the personnel expenses of the emergency telephone system;
- (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and
- (5) an emergency telephone notification system under IC 36-8-21. The legislative body of the unit may appropriate money in the fund only for such expenditures."

Indiana Code 36-8-16.5-43 states:

"The distribution of wireless emergency enhanced 911 funds by the board for cost recovery by PSAPs under section 39 of this chapter must be deposited by the county treasurer in a separate fund set aside for the purposes allowed by section 41 of this chapter. The fund must be known as the \_\_\_\_\_ (insert name of county) wireless emergency telephone system fund. The county treasurer may invest money in the fund in the same manner that other money of the county may be invested, but income earned from the investment must be deposited in the fund set aside under this section."

BOARD OF COUNTY COMMISSIONERS  
PORTER COUNTY  
AUDIT RESULTS AND COMMENTS  
(Continued)

Indiana Code 36-8-16.5-41 states:

"(a) A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

- (1) necessary computer hardware, software, and data base equipment;
- (2) personnel expense and training;
- (3) the provision of wireless enhanced emergency service; or
- (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service."

***QUESTIONABLE EXPENDITURES E-911***

During our review of E-911 disbursements, we found questionable expenditures based on the state guidelines for the following items in 2010:

1. Office Supplies
2. Office Equipment, such as printers and fax machines
3. Furniture (lockers for dispatchers)
4. Membership Dues

The questionable expenses totaled \$6,946.27, less than 1 percent of the total \$2,633,977.98 Emergency 911 expenditures for Porter County.

Indiana Code 36-8-16-14 (a) states:

"(a) The emergency telephone system fees shall be used only to pay for:

- (1) the lease, purchase, or maintenance of enhanced emergency telephone equipment, including necessary computer hardware, software, and data base provisioning;
- (2) the rates associated with the service suppliers' enhanced emergency telephone system network services;
- (3) the personnel expenses of the emergency telephone system;
- (4) the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee; and
- (5) an emergency telephone notification system under IC 36-8-21.

The legislative body of the unit may appropriate money in the fund only for such an expenditure."

BOARD OF COUNTY COMMISSIONERS  
PORTER COUNTY  
AUDIT RESULTS AND COMMENTS  
(Continued)

Indiana Code 36-8-16.5-41 states:

"(a) A PSAP shall use its distribution made under section 39 of this chapter for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

- (1) necessary computer hardware, software, and data base equipment;
- (2) personnel expense and training;
- (3) the provision of wireless enhanced emergency service; or
- (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service."

***PROSECUTOR'S BAD CHECK FEE***

As stated in the prior five reports, the Prosecuting Attorney and County Commissioners have contracted with the American Corrective Counseling Services (ACCS) to provide a pretrial misdemeanor bad check diversion program. The Prosecuting Attorney retains full prosecutorial discretion and sets and modifies the seminar fees and terms of payment from participants.

A \$35 County service fee is assessed to the participants in the program. The ACCS collects all payments and remits \$25 to the Prosecuting Attorney as the County's share.

The County's share of the bad check service fees is being deposited into the Prosecutor's Check Deferral Fund (Fund 281). The County Commissioners passed an ordinance establishing this fund in December 2006. The ordinance was submitted to the Indiana State Board of Accounts for review in December 2007. The State Board of Accounts reviewed the ordinance and recommended the ordinance be amended to require the fees be deposited in the General Fund of the County and be subject to appropriation by the County Council. Fund 281 had a balance of \$26,597.42 as of December 31, 2010.

Prosecuting Attorneys desiring to maintain a Bad Check Account should submit a written request to the State Board of Accounts. The request should indicate whether all, or a portion of, the service charge on a bad check is to be retained by the prosecuting attorney. If a service fee is retained by the prosecuting attorney, it should be pursuant to enactment of a "Home Rule" ordinance that has been enacted in accordance with IC 36-1-3 concerning the imposition of costs and service charges, and a copy of the Ordinance should accompany the written request for approval from this office. The State Board of Accounts will review the ordinance and the proposed program with corresponding comments concerning what the audit position will be in a letter of response to the inquiring prosecutor.

If the prosecuting attorney assesses and retains a service charge for processing bad checks, that fee or service charge becomes the property of the county and must be submitted to and received by, the County Auditor for deposit into the county general fund. Funds so received by the county may be expended by the prosecuting attorney only by following the budget appropriation and claim procedure. Funds collected through imposition of a bad check service charge may not be disbursed from the bad check account for the direct payment of prosecuting attorney office expenses. Such funds may only become available for this purpose upon appropriation by the county council from the county general fund into a line item in the prosecuting attorney's budget. (The County Bulletin and Uniform Compliance Guidelines, April 2006, Volume 354, page 10)

BOARD OF COUNTY COMMISSIONERS  
PORTER COUNTY  
AUDIT RESULTS AND COMMENTS  
(Continued)

**COMMISSIONER'S APPROVAL OF THE EMPLOYEE BENEFIT FUND DISBURSEMENTS**

Disbursements from the "Employee Benefit Fund" (Fund 45, a self-insurance fund) are reviewed and approved by the plan administrator, the County Auditor, and a Payroll Clerk in the Auditor's office. However, the disbursements from the "Employee Benefit Fund" are not included on the claim docket and are not formerly approved by the County Commissioners.

The board of county commissioners shall examine the merits of all claims or vouchers so presented and may, in its discretion, allow such claim or voucher, in whole or in part, as they may find to be valid. [IC 36-2-6-2] It is unlawful for any board of commissioners of any county or for any member thereof to make any allowance or to allow any claim or voucher against the county, or order the issuance of any county warrant for the payment of any sum of money, except at a regular or special session of the board. [IC 36-2-6-4] Each claim or voucher must show the date and amount allowed. If a claim or voucher is disallowed in whole or in part, this should be clearly shown on the claim or voucher and on the docket or register. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 7)

**LEVY EXCESS TRANSFER**

On April 19, 2011, the Board of County Commissioners approved Ordinance No. 11-06, creating and authorizing the use of a Rainy Day Fund (Fund 375). The Rainy Day Fund is to be used to assist in the budgetary shortfall in the operation of the Porter County E-911 Department and Dispatch Center. The County transferred \$4,025,623 from the Levy Excess Fund to the Rainy Day Fund. At December 31, 2010, the Levy Excess Fund had a balance of \$4,025,623, which originated from the Family and Children and Children's Psychiatric Residential Treatment Services (CPRTS) Funds distributed by the state to be used for public safety. In 2009, the Department of Local Government Finance (DLGF) authorized County Auditors to transfer these funds to the County's Rainy Day Fund. However, the transfer was to occur on or before December 31, 2009. In 2009, the County had not yet established a Rainy Day Fund.

In 2011, the County Auditor indicated that the County had permission from the DLGF to transfer the Levy Excess funds to the Rainy Day Fund. However, documentation was not presented for audit.

IC 6-1.1-19-1.7 and 6-1.1-18.5-17 require that a local taxing unit shall establish a "Levy Excess Fund" and shall receipt that portion of the property taxes received which exceeds one hundred two percent (102%) of the taxing unit's ad valorem property tax levy to the "Levy Excess Fund."

Each year the State Board of Tax Commissioners will certify to each unit of local government figures which show one hundred two percent (102%) of the tax levy for each fund, and, if the property taxes received exceed one hundred two percent (102%) of the levy, the excess shall be receipted to the "Levy Excess Fund."

The statute provides that the State Board of Tax Commissioners (Department of Local Government Finance) may require a taxing unit to include the amount in its Levy Excess Fund in the taxing unit's budget. After the budget has been approved, the amount in the Levy Excess Fund should be transferred from the Levy Excess Fund by warrant (check) and quietus (receipt) to the fund or funds in which the reductions were made to reduce the amount to be raised by taxation. (County Bulletin and Uniform Compliance Guidelines, Volume No. 336, page 7-8)

BOARD OF COUNTY COMMISSIONERS  
PORTER COUNTY  
AUDIT RESULTS AND COMMENTS  
(Continued)

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. (Accounting and Uniform Compliance Guidelines Manual for County Auditors of Indiana, Chapter 14)

***INMATE PROCESSING FEE***

The Board of County Commissioners adopted an Ordinance in March of 2009, establishing a \$25.00 inmate processing fee. According to the ordinance the fee is to be charged each time a person is booked into the Porter County Jail. If an individual is found not guilty this fee is refunded to them. The \$25.00 fee can only be assessed to an individual who is found guilty, therefore it cannot be charged at the time of booking per State Statute.

Indiana Code 36-2-13-17.4 states: "A sheriff or an employee of a jail may not charge an individual a fee for the individual to be incarcerated or held in a jail unless the individual has been convicted of a crime for which the individual was incarcerated or held in the jail."

BOARD OF COUNTY COMMISSIONERS  
PORTER COUNTY  
EXIT CONFERENCE

The contents of this report were discussed on July 12, 2011, with John Evans, President of the Board of County Commissioners; Daniel Whitten, President of the County Council; and Gwenn R. Rinkenberger, County Attorney. The official response has been made a part of this report and may be found on pages 10 and 11.

**PORTER COUNTY BOARD OF COMMISSIONERS**  
**AUDIT RESULTS AND COMMENTS**  
**2011**

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**E-911 FEES COMINGLED INTO ONE FUND**

**COMMENT:** The Porter County Board of Commissioners will draft an ordinance separating the E-911 fees so that the money received from phone companies for land-line and monies received for wireless phone fees will be separated into a separate fund.

**UNALLOWABLE EXPENDITURES E-911**

**COMMENT:** The Porter County Board of Commissioners are familiar with I.C. 36-8-16-14(a) and will advise the new director of E-911 that office supplies, office equipment, furniture and membership dues are an unallowable expenditure of E-911 funds.

**PROSECUTOR'S BAD CHECK FEE**

**COMMENT:** The Porter County Board of Commissioners will be more than happy to work with the Prosecuting Attorney on the Prosecutor's Bad Check Fee; however, the Porter County Board of Commissioners are of the opinion that the Prosecutor's Office should be pro-active on this issue and present the Porter County Board of Commissioners with the required remedy.

**COMMISSIONERS' APPROVAL OF EMPLOYEE BENEFIT FUND  
DISBURSEMENT**

**COMMENT:** The Porter County Board of Commissioners understands that pursuant to I.C. 36-2-6-2 all claims and vouchers must be approved by the Porter County Board of Commissioners and the Porter County Board of Commissioners will commence to approve disbursements from the "Employee Benefit Fund" (Fund 45, a self insurance fund) as required by law at least quarterly in a public meeting.

**LEVY EXCESS TRANSFER**

**COMMENT:** The Porter County Board of Commissioners understands the comments in the audit report regarding the Levy Excess Transfer and are of the understanding that the Porter County Auditor will obtain the necessary documentation from the DLGF indicating approval from the DLGF to transfer the Levy Excess Funds to the E-911 Rainy Day Fund.

**INMATE PROCESSING FEE**

**COMMENT:** The Porter County Board of Commissioners understands the comments made in the audit report regarding the Inmate Processing Fee. The Porter County Board of Commissioners have amended the ordinance so that the fee charged is returned if an inmate is found not guilty and the Porter County Board of Commissioners are of the opinion that this qualifies for compliance with Indiana State Code.

Respectfully submitted

  
Gwenn R. Rinkenberger  
Porter County Attorney

GRR/vw

cc: John A. Evans  
Nancy A. Adams  
Carole M. Knoblock

July 13, 2011