

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 49 – HOUSE ENROLLED ACT 1076 – EFFECTIVE JULY 1, 2010

PORT AUTHORITIES – Adds IC 8-10-5-8.7 and IC 8-10-5-8.9 – Amends IC 8-10-5-2, IC 8-10-5-8 and IC 8-10-5-8.5– Removes the requirement that a local port authority contract be in the name of the political subdivision that created the authority. Authorizes local port authorities to borrow money. States that a port authority is an instrumentality of the state and shall have full power and authority to exercise certain powers independent of any political subdivision.

PUBLIC LAW 52 – HOUSE ENROLLED ACT 1119 – EFFECTIVE JULY 1, 2010

CLAIMS – SOIL AND WATER CONSERVATION DISTRICTS – Adds IC 14-32-4-24 – Allows for certain district expenses to be paid between board meetings. Requires such payments to be reviewed at the district's next regular meeting. Requires the district's fiscal officer to certify the payments.

PUBLIC LAW 55 – HOUSE ENROLLED ACT 1186 – EFFECTIVE JULY 1, 2010

ORDINANCE VIOLATIONS – INTERLOCAL AGREEMENT WITH OTHER CITIES OR TOWNS TO HEAR AND DISPOSE OF CASES – Adds IC 33-35-1-6 and IC 33-36-2-4 – Amends IC 33-35-2-3, IC 33-35-2-8 and IC 33-36-3-7 – States that a city or town that has not established a court may enter into an interlocal agreement under IC 36-1-7 with a city or town that (1) has established a court; and (2) is located in the same judicial circuit as the city or town that has not established a court; to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of a court established by the city or town. Further provides that a city or town that has not established a court under IC 33-35-1 or an ordinance violations bureau under IC 33-36-2 may enter into an interlocal agreement with a municipal corporation that: (1) has established an ordinance violations bureau; and (2) is located in the same judicial circuit as the city or town that has not established a court or an ordinance bureau; to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of an ordinance violations bureau by the city or town. States that if a city or town that has not established a court under IC 33-35-1 or an ordinance violations bureau under IC 33-36-2 has entered into an interlocal agreement described in IC 33-36-2-4 with a municipal corporation, the sums collected by violations clerk that involve the city or town that has not established a court or ordinance violations bureau shall be accounted for and paid as provided in the interlocal agreement.

PUBLIC LAW 56 – HOUSE ENROLLED ACT 1194 – EFFECTIVE JULY 1, 2010

POLICE AND FIRE DEPARTMENT MEMBERS – REINSTATEMENT RIGHTS – Amends IC 36-8-4-11 – Provides that the reinstatement rights of laid off members of a city police or fire department terminate five years after the day on which the member's layoff begins.

PUBLIC LAW 62 – HOUSE ENROLLED ACT 1050 – EFFECTIVE JULY 1, 2009

(RETROACTIVE) – 1977 POLICE AND FIRE PENSION PLAN – (See Public Law 23 )

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 73 – HOUSE ENROLLED ACT 1183 – EFFECTIVE MARCH 17, AND JULY 1, 2010 – TAX SALE PROPERTY – Adds IC 6-1.1-24-7.5 and IC 32-29-7-8.5 – Amends IC 6-1.1-24-1, IC 6-1.1-24-6.1, IC 6-1.1-24-7, IC 6-1.1-24-9, IC 6-1.1-25-4, IC 6-1.1-25-11, IC 32-30-10-14 and IC 36-7-9-2 – Changes the date on which properties are certified for sale by the county treasurer to the county auditor. Allows the county commissioners to assign a certificate of sale to any political subdivision during the life of the certificate. States that the period of redemption on such assignments is 120 days. Defines “known or recorded substantial property interest” to include liens filed in the county auditor’s office of a county where an unsafe premises is located.

PUBLIC LAW 81 – SENATE ENROLLED 223 – EFFECTIVE JULY 1, 2010  
MORTGAGE DEDUCTIONS – Amends IC 6-1.1-12-1 and IC 6-1.1-12-2 – Requires the mortgage deduction form prescribed by the DLGF to contain a statement specifying that a person is not entitled to the deduction unless the person has a balance on their mortgage or contract indebtedness including any home equity line of credit. Requires all mortgage type documents to be recorded to be eligible for a mortgage deduction.

PUBLIC LAW 85 – SENATE ENROLLED ACT 382 – EFFECTIVE MARCH 18, 2010  
PUBLIC-PRIVATE AGREEMENTS – Adds and amends several sections of IC 8-15-2, IC 8-15-3, IC 8-15.5-1, IC 8-15.5-2, IC 8-15.5-4, IC 8-15.5-5, IC 8-15.5-6, IC 8-15.5-10, IC 8-15.7-1, IC 8-15.7-2, IC 8-15.7-4, IC 8-15.7-5, IC 8-15.7-6, IC 8-15.7-14, IC 8-16-1, IC 8-16-2 and IC 8-23-7-22 – Makes significant changes to the laws dealing with public-private construction projects which include the Indiana Expressway and projects connecting Indiana and Kentucky.

PUBLIC LAW 86 – SENATE ENROLLED ACT 400 – EFFECTIVE JULY 1, 2010  
MOTOR VEHICLES – Adds IC 14-8-2-5.7, IC 14-8-2-233.5 and IC 14-16-1-1.8 – Amends IC 9-13-2-60, IC 14-8-2-185, IC 14-16-1-8, IC 14-16-1-22, IC 15-12-3-2, and IC 34-13-3-3 – Changes the definition sections for farm wagons, all terrain vehicles, off-road vehicles, recreational off-road vehicles, and collector snowmobiles. States that a governmental entity or employee is not liable if a loss results from the operation of an off-road vehicle unless the loss was a result of gross negligence, willful or wanton misconduct, or intentional misconduct.

PUBLIC LAW 88 – HOUSE ENROLLED ACT 1008 – EFFECTIVE JULY 1, 2010  
1977 POLICE AND FIRE PENSION FUND – Adds IC 36-8-8-8.8 – Allows members of the 1977 Fund to purchase service earned out of state at full actuarial cost.

PUBLIC LAW 89 – HOUSE ENROLLED ACT 1059 – EFFECTIVE JULY 1, 2010  
PROPERTY TAX COLLECTIONS – ADVANCE TAX DRAWS – Amends IC 5-13-6-3 and IC 6-1.1-27-1 – States that if a county treasurer or auditor refuses, neglects, or fails to make an advance tax draw within 30 days, the political subdivision requesting the advance is entitled to recover interest if the county has the taxes invested in an interest bearing investment.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

the burden of applying for a new or renewal license and establishing that the one year or two year period has elapsed. Enhances the penalty and prohibits a person from receiving a driver's license if a person has a second unrelated conviction for knowingly or intentionally operating a motor vehicle and has never received a valid driver's license. Creates a 14 member criminal law and sentencing study committee.

**PUBLIC LAW 102 – SENATE ENROLLED ACT 170 – EFFECTIVE JULY 1, 2010**

**MOTOR VEHICLE OFFENSES** – Amends IC 9-30-5-5 and IC 35-44-3.3 – Makes it a Class D Felony for a person to cause the death of a law enforcement animal when operating a vehicle while intoxicated. Makes it a Class A Felony if a person resists law enforcement and operates a vehicle in a manner that causes the death of a law enforcement officer.

**PUBLIC LAW 104 – HOUSE ENROLLED ACT 249 – EFFECTIVE MARCH 24, 2010**

**REDEVELOPMENT AND MILITARY BASE REUSE AUTHORITIES** – Adds IC 36-7-30-34 and IC 36-7-30-35 – Amends IC 36-7-14.5-12.5 and IC 36-7-30-25 – Adds expenditures that benefit local public improvements or structures as allowable expenditures by a redevelopment authority and for which a redevelopment authority may reimburse any other governmental body if the improvements or structures serve or benefit the authority's allocation area. Removes the restriction on using the redevelopment authority's fund for operating expenses of the redevelopment authority. Provides that expenses may be incurred by a military base reuse authority, any other department of the unit, or a department of another governmental entity, for local public improvements or structures that are in the allocation area or directly serving or benefiting the allocation area, including expenses for the operation and maintenance of these local public improvements or structures if the reuse authority determines those operation and maintenance expenses are necessary or desirable to carry out the purposes of the authority. Provides that a military reuse authority that owns or acquires a public utility to provide water service or sewage disposal service has certain powers and duties of a municipal board and municipal legislative body with respect to the operation of a municipal water utility or municipal sewage works.

**PUBLIC LAW 106 – SENATE ENROLLED ACT 399 – EFFECTIVE JULY 1, 2010**

**COURT COSTS** – Amends IC 9-22-3-7.5, IC 9-24-15-5, IC 9-30-10-7, IC 9-30-3-12, IC 33-37-1-3, IC 34-6-2-30.5, IC 34-28-5-5, IC 35-33.5-5-4, IC 35-33-8.5-11, IC 35-38-4-6, IC 35-42-3.5-3, IC 35-45-13-8, and IC 35-50-5-4 – Specifies that court costs include court fees.

**CLASS C INFRACTION JUDGMENTS** – Amends IC 34-28-5-4 – States that a person who has admitted to a moving traffic violation constituting a Class C infraction, or has been found by a court to have committed a moving violation constituting a Class C infraction, may not be required to pay more than the following amounts for the violation: (1) If, before the appearance date specified in the summons and complaint, the person mails or delivers an admission of the moving violation or a plea of nolo contendere to the moving violation, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50). (2) If the person admits the moving violation or enters a plea of nolo contendere to the moving

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

violation on the appearance date specified in the summons and complaint, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50). (3) If the person contests the moving violation in court and is found to have committed the moving violation, the person may not be required to pay any amount, except: (A) court costs and a judgment that does not exceed thirty-five dollars and fifty cents (\$35.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was not found by a court in the county to have committed a moving violation; (B) court costs and a judgment that does not exceed two hundred fifty dollars and fifty cents (\$250.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed one (1) moving violation; and (C) court costs and a judgment that does not exceed five hundred dollars (\$500) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed two (2) or more moving violations. In a proceeding under subdivision (3), the court may require the person to submit an affidavit or sworn testimony concerning whether, in the five (5) years before the appearance date specified in the summons and complaint, the person has been found by a court to have committed one (1) or more moving violations. The amounts described in IC 34-28-5-4 (f) are in addition to any amount that a person may be required to pay for attending a defensive driving school program. This applies only to infraction judgments imposed in Marion County for traffic violations after December 31, 2010. IC 34-28-5-4 (f) applies to an infraction judgment described in IC 34-28-5-4(h). However, a court shall impose a judgment of not less than thirty-five dollars (\$35) for an infraction judgment that is entered in Marion County. These funds shall be transferred to a dedicated fund in accordance with IC 34-28-5-5.

**PUBLIC LAW 107 – HOUSE ENROLLED ACT 1205 – EFFECTIVE JULY 1, 2010**  
**PUBLIC EMPLOYEES' RETIREMENT FUND (PERF) – Noncode – Provides for a thirteenth check for PERF members, survivors, and beneficiaries.**

**PUBLIC LAW 108 – HOUSE ENROLLED ACT 1271 – EFFECTIVE JULY 1, 2010**  
**PROBLEM SOLVING COURTS – Adds IC 33-23-16 and IC 33-38-9-10 – Amends IC 11-12-2-3, IC 11-12-3.7-7, IC 33-37-5-24, and IC 33-38-9-9 – Allows city courts to establish a problem solving court. Permits the court to charge a fee to eligible individuals who receive problem solving court services. Changes the name of drug courts and reentry courts to problem solving courts. Such fees would be transmitted to the city's fiscal officer for deposit in the city user fee fund.**

**PUBLIC LAW 110– SENATE ENROLLED ACT 23 – EFFECTIVE VARIOUS DATES**  
**UNEMPLOYMENT COMPENSATION – Amends IC 22-4-4-2, IC 22-4-5-1, IC 22-4-10-3, IC 22-4-11-2, IC 22-4-11-3, IC 22-4-11-3.5 and IC 22-4-14-3 – Provides that if an employer appeals an initial determination granting benefits and the determination is reversed based on information the employer failed to provide in response to the department request, the employer's experience account shall be charged 50% of the benefits paid to the employee.**

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

**HIRING PREFERENCES – POLICE AND FIRE POSITIONS** – Amends IC 36-8-4-10 and IC 36-8-10-10.4 – Allows cities and towns to give preference in hiring police and fire positions to laid off police officers, firefighters, and emergency workers.

**PUBLIC LAW 113 – HOUSE ENROLLED ACT 1086 – EFFECTIVE VARIOUS DATES**

**SALES TAX** – Adds IC 6-2.5-5-44 – States that transactions involving tangible personal property are exempt from the state gross retail tax if the property is acquired by a city or town for use in the operation of a municipal golf course. Makes such provision retroactive back to July 1, 2007.

**CUMULATIVE CAPITAL IMPROVEMENT (CCI) FUND** – Amends IC 6-7-1-31.1 – States that money in the CCI fund (cigarette tax supported fund) may be used for any other governmental purpose for which money is appropriated by the fiscal body of the city or town effective March 25, 2010.

**PUBLIC WORKS PROJECTS** – Amends IC 36-1-12-4 – States that the period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board. The period of time between the date of the first publication and receiving bids may not be more than: (A) six (6) weeks if the estimated cost of the public works project is less than twenty-five million dollars (\$25,000,000); and (B) ten (10) weeks if the estimated cost of the public works project is at least twenty-five million dollars (\$25,000,000)

**CITY BUDGETS** – Amends IC 36-4-7-11 – States that if a city fails to pass a budget ordinance before November 2 of each year, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year. Under prior law, the date was October 1.

**WEED ASSESSMENTS** – Amends IC 36-7-10.1-3 – Requires property owners to be notified by certified mail, return receipt requested, or an equivalent service permitted under IC 1-1-7-1, of any costs incurred by a city or town in abating a weed ordinance violation. The cost of sending the notice may be billed to the owner of the property.

**CUMULATIVE CAPITAL IMPROVEMENT (CCI) FUND** – Amends IC 36-9-16-2 Permits a city or town to establish a CCI fund (tax rate supported fund) for any lawful purpose. This would allow a city or town with a Cumulative Capital Development (CCD) fund to use the money in the fund for any lawful purpose if the CCD ordinance includes IC 36-9-16-2 as a permitted use of the fund.

**SEWER LIENS** – Amends IC 36-9-23-32(c) – States that a lien attaches against real property occupied by someone other than the owner only if the utility notified the owner within twenty (20) days after the time the utility fees became sixty (60) days delinquent. However, the utility is required to give notice to the owner if the owner has given the general office of the utility written notice of the address to which the owner's notice is to be sent. A notice sent to the owner must be sent by certified mail, return receipt

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

requested, or an equivalent service permitted under IC 1-1-7-1 to : (1) the owner of record of real property with a single owner; or (2) at least one (1) of the owners of real property with multiple owners; at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice. The cost of sending the notice is an administrative cost that may be billed to the owner.

CERTIFIED TECHNOLOGY PARKS – Amends IC 36-7-32-11 – States that if a certified technology park is not recertified the Indiana Economic Development Corporation shall send a certified copy of the decertification to the County Auditor, DLGF, and the Department of Revenue.

W-2 AND WH-3 FILINGS – Adds IC 6-3-4-16.5 – Requires employers with more than twenty-five (25) Form W-2 and WH-3 filings in a calendar year to file such statements electronically beginning January 1, 2011.

CAGIT, COIT, CEDIT – ADOPTION DATES – Adds IC 6-3.5-1.1-1.5, IC 6-3.5-6-1.5 and IC 6-3.5-7-4.9 – Amends IC 6-3.5-1.1-9, IC 6-3.5-6-17 and IC 6-3.5-7-11 – Allows the adoption of an ordinance to : (1) impose, increase, decrease, or rescind a tax or tax rate; or (2) grant, increase, decrease, rescind or change a homestead credit or property tax replacement credit; to take place any time in a year prior to November 1 of that year. An ordinance that imposes or increases a tax rate takes effect as follows: (1) If adopted January 1 through September 30, the ordinance takes effect October 1 of the current year; (2) If adopted October 1 through October 15, the ordinance takes effect November 1 of the current year; (3) If adopted October 16 through October 31, the ordinance takes effect December 1 of the current year. An ordinance that decreases or rescinds a tax or tax rate takes effect as follows: (1) If adopted January 1 through September 30, the ordinance takes effect the later of October 1 or the first day of the month in the current year as the month in which the last increase in the tax occurred; (2) If adopted October 1 through October 15, the ordinance takes effect the later of November 1 or the first day of the month in the current year as the month in which the last increase in the tax occurred; (3) If adopted October 16 through October 31, the ordinance takes effect the later of December 1 or the first day of the month in the current year as the month in which the last increase in the tax occurred. An ordinance that grants, increases, decreases, rescinds, or changes a homestead credit or property tax replacement credit from CAGIT, COIT or CEDIT takes effect and applies to property taxes first due and payable in the year immediately following the year in which the ordinance is adopted.

ENHANCED PREPAID WIRELESS CHARGES – E-911 – Adds IC 36-8-16.6 – Allows the enhanced 911 advisory board at the state to establish charges for prepaid wireless telephones. The enhanced prepaid wireless charges are not to exceed ½ of the monthly amount charged to wireless telephone customers for E-911 services. This amount is charged at the time the prepaid telephone service is purchased and is to be remitted to the Indiana Department of Revenue for deposit into the same fund at the state that is used to collect and distribute emergency telephone charges. These additional fees will be distributed to the local government providing E-911 response services in the same manner as the other wireless E-911 monies.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

FIRE PROTECTION TERRITORIES – Amends IC 6-1.1-18.5-10.5 – Permits a city or town to petition the DLGF to increase its maximum levy to phase in its initial levy for a fire protection territory.

MAXIMUM LEVY ADJUSTMENT– USE OF CASH BALANCES – Amends IC 6-1.1-18.5-1 – Allows the DLGF to adjust a city or town’s maximum levy if the city or town used its cash balances rather than its entire levy authority in the preceding year.

PETITIONS FOR CONTROLLED PROJECTS – Amends IC 6-1.1-20-3.1, IC 6-1.1-20-3.2 and IC 6-1.1-20-3.5 – Requires the political subdivision desiring the controlled project to send notice to the clerk of the circuit court by first class mail for each of the following events:

- (1) any meeting to consider an ordinance or resolution making a preliminary determination to issue bonds or into a capital lease for a controlled project;
- (2) a preliminary determination to issue bonds or enter into a capital lease for a controlled project;
- (3) when a petition and remonstrance process is applicable and the political subdivision is giving notice to begin the process under IC 6-1.1-20-3.2 (Phase II)

PUBLIC QUESTIONS ON CONTROLLED PROJECTS – Amends IC 6-1.1-20-3.6 – Requires the county election board to submit the controlled project public question language to the Department of Local Government Finance (DLGF) to evaluate the description of the controlled project for bias. The DLGF may recommend the ballot language be used as submitted or recommend modification to the county election board not more than 10 days after submission. The county election board shall take final action to approve the ballot language. The finally adopted ballot language may differ from the recommendations made by the DLGF. The county auditor shall certify the finally approved public question to the county election board of each county in which the political subdivision is located.

CONTROLLED PROJECTS OPTION – Adds IC 6-1.1-20-3.8 – Allows a political subdivision making a preliminary determination to issue bonds or enter into a capital lease to which the petition and remonstrance process applies to opt to put a public question on the ballot in lieu of going through the petition and remonstrance process. To exercise this option, the fiscal body of the political subdivision may adopt a resolution specifying that the local public question process specified in IC 6-1.1-20-3.6 applies to the issuance of bonds or the execution of the lease instead of the petition and remonstrance process in IC 6-1.1-20-3.2 (phase II). The fiscal body must adopt the resolution not later than the date on which the political subdivision makes a preliminary determination to issue bonds or enter into a lease. The fiscal body must certify the resolution to the county election board of each county in which the political subdivision is located and the county election board shall place the public question on the ballot as provided in IC 6-1.1-20-3.6.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC QUESTION ON AMENDMENT TO STATE CONSTITUTION – Specifies the ballot language for the submission of the proposed amendment to the State Constitution concerning circuit breakers.

LIBRARIES – PAYMENT OF CLAIMS BY EFT – Adds IC 36-12-3-16.5 – Allows a library board to adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a library board adopts a resolution, the public library may pay money from its funds by electronic funds transfer. A public library that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the public library.

PUBLIC LAW 115 – HOUSE ENROLLED 1336 – EFFECTIVE MARCH 25 AND JULY 1, 2010  
CERTIFICATES OF DEPOSIT – Adds IC 5-13-9-5.3 – Allows a city or town council to pass an ordinance or resolution authorizing the investment in certificates of deposit in accordance with the following conditions:

- (1) The funds are initially invested through a depository that is selected by the investing officer.
- (2) The selected depository arranges for the deposit of the funds in certificates of deposit in one (1) or more federally insured banks or savings and loan associations, wherever located, for the account of the city or town.
- (3) The full amount of the principal and any accrued interest of each certificate of deposit are covered by insurance of any federal deposit insurance agency.
- (4) The selected depository acts as a custodian for the city or town with respect to the certificates of deposit issued for its account.
- (5) At the same time that the city or town's funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits covered by insurance of any federal deposit insurance agency from customers of other institutions, wherever located, at least equal to the amount of the funds invested by the city or town. Public Funds invested in this manner are not subject to any security or pledging requirements that may otherwise be applicable to the deposit or investment of public funds.

CERTIFICATES OF DEPOSIT – QUOTES – Amends IC 5-13-9-4 – States that if the deposit is not placed in the designated depository quoting the highest rate of interest, the investing officer shall: (1) place the deposit in the depository quoting the second or third highest rate of interest; and (2) note the reason for placing the deposit on the memorandum of quotes.

CERTIFICATES OF DEPOSIT – QUOTES FROM BANKS OUTSIDE OF THE CITY OR TOWN – Amends IC 5-13-9-5 – States that the fiscal body of each city or town may by ordinance or resolution authorize the investing officer of each, respectively, to invest in certificates of deposit of depositories that have not been designated by the local board of finance of either but have been designated by the state board of finance as a depository for state deposits under IC 5-13-9.5. The ordinance or a resolution adopted must provide that the authority granted in the ordinance or resolution expires on a date that is not later than two (2) years after the date the ordinance or resolution is adopted.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2010 LAWS AFFECTING CITIES AND TOWNS**

With respect to any money to be invested in a deposit account, the investing officer shall solicit quotes for the certificates of deposit from at least three (3) depositories. If only one (1) depository has been designated, a quote must be solicited from that depository. If two (2) or more depositories have been designated, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

If a deposit is not placed in the designated depository quoting the highest rate of interest, the investing officer shall follow the procedures and priority for placing deposits that are set forth in IC 5-13-9-4 and note the reason for placing the deposit on the memorandum of quotes.

**MONEY MARKET MUTUAL FUNDS** – Amends IC 5-13-9-2.5 – Removes the 50% limitation on the amount of funds which may be invested in a money market mutual fund.

**MUNICIPAL SECURITIES** – Amends IC 5-13-9-2 – Allows for investment in municipal securities issued by an Indiana local governmental entity, a quasi-government entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana, if the issuer has not defaulted on any of the issuer obligations within the twenty (20) years preceding the date of the purchase.

**JOINT INVESTMENTS** – Amends IC 5-13-9-10 – Requires those cities and towns who have established a joint investment fund with another government located within the same county to invest or reinvest money in the fund only in investments that are permitted by IC 5-13-9.

**STATE BOARD FOR DEPOSITORIES** – Amends IC 5-13-12 – Adds four appointed members to the board. Changes the laws dealing with board meetings. Increases the amount of anticipatory warrants the board may issue to pay claims when the assets in the Public Deposit Insurance Fund (PDIF) fund are not sufficient to pay claims from \$1.5 million to \$300 million. States that if the PDIF balance reaches zero, all depositories must pledge collateral equal to 100% of the depository's public fund holdings.

**FIVE STAR MORTGAGE PROGRAM** – Adds IC 24-5-23.6 – Creates a five star mortgage program for financial institutions and Indiana mortgage customers.

**PUBLIC LAW 116 – HOUSE JOINT RESOLUTION 1**

**CIRCUIT BREAKERS** – Places property tax caps on all homestead, residential, agricultural, and personal property effective for property taxes first due and payable in 2012 and thereafter.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**2009 LAWS AFFECTING CITIES AND TOWNS**

**PUBLIC LAW 141 – HOUSE ENROLLED ACT 1230 – EFFECTIVE JULY 1, 2009**

**PUBLIC NOTICE ADVERTISING RATES** – Amends IC 5-3-1-1 – Provides that after December 31, 2009, a newspaper or qualified publication may, effective January 1 of any year, increase the basic charges by not more than two and three-quarters percent (2.75%) more than the basic charges that were in effect during the previous year. However, the basic charges for the first insertion of a public notice in a newspaper or qualified publication may not exceed the lowest classified advertising rate charged to advertisers by the newspaper or qualified publication for comparable use of the same amount of space for other purposes and must include all insertion discounts extended to the newspaper's other advertisers. An additional charge of fifty percent (50%) shall be allowed for publication of all public notice advertising containing rule or tabular work.

All public notice advertisements shall be set in solid type that is at least 7 point type, without any leads or other devices for increasing space.

**NEWSPAPER INTERNET WEB SITES** – Adds IC 5-3-1-1.5 – EFFECTIVE JULY 1, 2009 – If a newspaper maintains an Internet web site, a notice that is published in the newspaper must also be posted on the newspaper's web site. The notice must appear on the web site on the same day the notice appears in newspaper. The State Board of Accounts shall develop a standard form for notices posted on a newspaper's Internet web site. A newspaper may not charge a fee for posting a notice on the newspaper's Internet web site under this section.

**PUBLICATION OF ANNUAL REPORTS** – Adds IC 5-3-1-3.5 – EFFECTIVE JULY 1, 2009 – Requires each political subdivision that has: (1) an annual budget of at least three hundred thousand dollars (\$300,000); and (2) the power to levy taxes to publish annual reports of their receipts and expenditures during the preceding calendar year not later than sixty (60) days after the expiration of each calendar year.

This does not apply to a political subdivision that is required to publish an annual report under any other statute.

**NOTICES PUBLISHED BY CITIES AND TOWNS** – Amends IC 5-3-1-4 – Eliminates the requirement to post notices at or near city or town hall that are published by cities and towns with one or no newspaper published in the city or town. Please note that this does not apply to public notices of meetings which are to be posted in accordance with IC 5-14-1.5-5(b).

**CITY ELECTED OFFICERS' SALARIES – ADVERTISING** – Amends IC 36-4-7-2  
Eliminates the requirement to advertise elected city officers' salaries.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

Page 12

June 2009

**2009 LAWS AFFECTING CITIES AND TOWNS**

PUBLIC LAW 172 – HOUSE ENROLLED ACT 1278 – EFFECTIVE MAY 13 AND JULY 1, 2009  
UTILITY PROPERTY – Amends IC 8-1-2-92, IC 8-1-2-93, IC 8-1.5-2-7, IC 8-1.5-2-8,  
IC 8-1.5-3-8 and IC 32-24-2-6 – Eliminates the requirement that a utility obtain voter  
approval of acquisition of property by condemnation. Allows a utility to recover costs of  
the acquisition of property through its rates and charges.

PUBLIC LAW 174 – HOUSE ENROLLED ACT 1362 – EFFECTIVE JULY 1, 2009  
VOLUNTEER FIREFIGHTERS AND EMS PERSONNEL BENEFITS – Amends  
IC 34-31-2-11, IC 36-8-12-2, IC 36-8-12-6, IC 36-8-12-7, IC 36-8-12-8 and  
IC 36-8-12-10 – Increases the weekly benefit for total disability for volunteer firefighters  
and EMS personnel who suffer certain in the line of duty injuries for up to 2 weeks from  
\$250 to \$262. Adds EMS personnel to persons who are to be covered for accidental  
death, medical treatment, and burial expense by cities and towns.

PUBLIC LAW 175 – HOUSE ENROLLED ACT 1379 – EFFECTIVE JULY 1, 2009  
UNEMPLOYMENT – Adds IC 2-5-30 and IC 22-4-43 – Makes several amendments to  
several chapters and sections in IC 22-4 – Creates an Unemployment Insurance  
Oversight Committee. Creates a Hoosier Workers First Training Program. Increases  
the taxable wage base from \$7,000 to \$9,500 beginning January 1, 2010. Makes many  
other changes to the State's Unemployment laws.

PUBLIC LAW 176 – HOUSE ENROLLED ACT 1514 – EFFECTIVE JULY 1, 2009  
OFFICIAL BONDS – Amends IC 5-4-1-18 – Requires surety bonds required under IC 5-  
4-1-18 to be annual bonds instead of for the term of office. Increases the minimum  
amount of annual coverage from \$15,000 to \$30,000 for each \$1,000,000 in receipts for  
all city controllers, city and town clerk-treasurers, and Barrett Law fund custodians. .  
The maximum amount that could be required remains at \$300,000. Raises the minimum  
amount of other persons required to file an individual bond from \$8,500 to \$15,000.

COMPUTERIZED ACCOUNTING SYSTEMS – Amends IC 5-11-1-2 – Removes the  
section of law that prohibited the State Board of Accounts from requiring a municipality  
to use an electronic, automated, or computerized system of accounting and reporting.

ELECTRONIC ANNUAL REPORTS – Amends IC 5-11-1-4 – Requires all entities to file  
their annual (CTAR) reports electronically in a manner prescribed by the state examiner  
that is compatible with the technology employed by political subdivision.

STATE BOARD OF ACCOUNTS REPORTS – Amends IC 5-11-5-1 and IC 5-11-6-1  
Allows the State Examiner to provide a preliminary report of misappropriated or diverted  
public funds to the Attorney General. Permits the Attorney General to institute and  
prosecute civil proceedings against a delinquent officer or employee or proceed against  
the officer's or employee's official bond.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

Page 13

June 2009

**2009 LAWS AFFECTING CITIES AND TOWNS**

VANDEBURGH COUNTY HOTEL TAX AND FOOD AND BEVERAGE TAX – Amends IC 6-9-2.5-7.5 – Amends and adds to IC 6-9-20 – Makes several changes to the laws governing the use of such taxes to finance a new arena. Requires the City Controller to establish a Municipal Arena Fund if the food and beverage tax is continued to finance the arena and other facilities serving the arena.

MARTINSVILLE FOOD AND BEVERAGE TAX – Amends IC 6-9-27-9.5 – Eliminates the December 31, 2015 expiration date on which the City may initiate projects funded with the tax.

ALLEN COUNTY – FORT WAYNE CAPITAL IMPROVEMENT BOARD – Amends IC 6-9-33 and IC 36-10-8-6 – Changes the name of the improvement board. Makes several changes to the permitted uses of food and beverage tax revenues.

MONROE COUNTY FOOD AND BEVERAGE TAX – Adds IC 6-9-41 – Allows Monroe County to impose a food and beverage tax after May 13, 2009.

PUBLIC WORKS LAW – Adds IC 36-1-12-4.9 – Allows public works projects that involve routine operation, routine repair, routine maintenance of existing structures, buildings or real property to be awarded using the provisions of IC 5-22 if the cost of the public work project is estimated to be less than \$150,000.

PUBLIC LAW 178 – HOUSE ENROLLED ACT 1589 – EFFECTIVE JULY 1, 2009  
ELECTRONIC WASTE – Adds IC 13-20.5 – Prohibits computers, monitors, printers, televisions, and other electronic devices from disposal at a landfill after 2010.

PUBLIC LAW 181 – HOUSE ENROLLED ACT 1716 – EFFECTIVE JULY 1, 2009  
LITTLE CALUMET RIVER BASIN DEVELOPMENT COMMISSION – Adds IC 14-13-2-30 and IC 14-13-2-31 – Amends IC 14-13-2-7, IC 14-13-2-10, and IC 14-13-2-17 – Reduces the number of commission members from eleven to five. States that a commission member may not be an employee or elected official of a city, town, or county government. Requires the State Board of Accounts to audit the Commission's records on an annual basis.

HOUSE ENROLLED ACT 1001 (SS) – EFFECTIVE JULY 1, 2009  
COURT COSTS – Amends IC 33-37-5-21 and IC 33-37-7-8 – Requires the clerk of a city or town court to distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1.

# CITIES AND TOWNS BULLETIN AND UNIFORM COMPLIANCE GUIDELINES

## TRANSFER OF APPROPRIATIONS

A city or town council may approve the transfer of money from one major budget classification to another within a department of office if the transfer is determined to be necessary, does not require the expenditure of more money than the total amount set out in the budget as finally determined and the transfer is approved at a regular public meeting and by proper ordinance or resolution. The transfer may be made without notice and without the approval of the Department of Local Government Finance. (IC 6-1.1-18-6)

## APPROPRIATION OF INSURANCE CLAIM PROCEEDS

The fiscal officer of a political subdivision may appropriate funds received from an insurance company if : (1) the funds are received as a result of damage to property of the political subdivision; and (2) the funds are appropriated for the purpose of repairing or replacing the damage property. However, the funds must be expended to repair or replace the property within the twelve month period after they are received. (IC 6-1.1-18-7)

## APPROPRIATION OF FEDERAL AND STATE GRANTS

Notwithstanding any other law, the appropriating body of a political subdivision may appropriate any funds received as a grant from the state or the federal government without using the additional appropriation procedures under IC 6-1.1-18-5, if the funds are provided or designated by the state or the federal government as a reimbursement of an expenditure made by the political subdivision. (IC 6-1.1-18-7.5)

## FORM APPROVALS

Please be reminded of the form approval process as discussed in the Accounting and Uniform Compliance Guidelines Manual for Cities and Towns at <http://www.in.gov/sboa/3053.htm>. The use of computerized systems provide for an easier process of electronic submission and approval. Accordingly, please submit all future form approval requests electronically by e-mail for consideration. You should include the request on letterhead which shows the name of the city or town, address, clerk-treasurer's or controller's name submitting, etc. along with the forms requested for approval. The city or town submitting the request will receive a reply by e-mail. Any city or town desiring to receive a stamped hardcopy form approval may do so by forwarding a self-addressed stamped envelope.

Please send all electronic form approval requests to [dkeene@sboa.in.gov](mailto:dkeene@sboa.in.gov). Please ensure the e-mail subject line reads exactly **Form Approval 2010** (make sure you only use one space between form and approval and 2010).

# CITIES AND TOWNS BULLETIN AND UNIFORM COMPLIANCE GUIDELINES

## OFFICIAL BONDS – AMOUNTS

Public Law 176, House Enrolled Act 1514, effective July 1, 2009, raised the minimum amount of the official bonds for city controllers, city and town clerk-treasurers, and Barrett Law Fund custodians from \$15,000 to \$30,000.

Such bonds are required to be obtained on an annual basis and the amount of annual coverage must equal \$30,000 for each million dollars of receipts of the officer's office during the last complete fiscal year before the purchase of the bond.

The amount of annual coverage may not be less than \$30,000 nor more than \$300,000, unless the fiscal body approves a greater amount of coverage. The amount of annual coverage of the bonds of city judges and city clerks and other city and town persons required to file an individual bond shall be fixed by the fiscal body at not less than \$15,000. (IC 5-4-1-18)

## OFFICIAL BONDS – FILING

Every elected or appointed officer, official, deputy, or employee of political subdivision who is required by IC 5-4-1-18 to file an official bond for the faithful performance of duty shall file the bond in the office of the county recorder in the county of residence of the officer, official, deputy or employee.

The bonds shall be filed within ten (10) days of their issuance or, if approval is required, within ten (10) days after their approval by the person required to approve the bonds. The recorder shall record all of the bonds filed, indexing them alphabetically under the name of the principal and referring to the title, office, and page number where recorded. The bonds shall be kept in a safe and convenient place in the recorder's office with a reference to the date files and record and page where recorded. (IC 5-4-1-5.1)

IC 36-2-7-10(g) states that the county recorder may not collect a fee for recording an official bond of a public officer, a deputy, an appointee, or an employee.

It is our audit position that a new bond be obtained on an annual basis by those elected or appointed officers, officials, deputies or other employees required to file individual bonds in order to meet the annual coverage requirement in the new law.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

Page 13

June 2009

**2009 LAWS AFFECTING CITIES AND TOWNS**

VANDEBURGH COUNTY HOTEL TAX AND FOOD AND BEVERAGE TAX – Amends IC 6-9-2.5-7.5 – Amends and adds to IC 6-9-20 – Makes several changes to the laws governing the use of such taxes to finance a new arena. Requires the City Controller to establish a Municipal Arena Fund if the food and beverage tax is continued to finance the arena and other facilities serving the arena.

MARTINSVILLE FOOD AND BEVERAGE TAX – Amends IC 6-9-27-9.5 – Eliminates the December 31, 2015 expiration date on which the City may initiate projects funded with the tax.

ALLEN COUNTY – FORT WAYNE CAPITAL IMPROVEMENT BOARD – Amends IC 6-9-33 and IC 36-10-8-6 – Changes the name of the improvement board. Makes several changes to the permitted uses of food and beverage tax revenues.

MONROE COUNTY FOOD AND BEVERAGE TAX – Adds IC 6-9-41 – Allows Monroe County to impose a food and beverage tax after May 13, 2009.

PUBLIC WORKS LAW – Adds IC 36-1-12-4.9 – Allows public works projects that involve routine operation, routine repair, routine maintenance of existing structures, buildings or real property to be awarded using the provisions of IC 5-22 if the cost of the public work project is estimated to be less than \$150,000.

PUBLIC LAW 178 – HOUSE ENROLLED ACT 1589 – EFFECTIVE JULY 1, 2009  
ELECTRONIC WASTE – Adds IC 13-20.5 – Prohibits computers, monitors, printers, televisions, and other electronic devices from disposal at a landfill after 2010.

PUBLIC LAW 181 – HOUSE ENROLLED ACT 1716 – EFFECTIVE JULY 1, 2009  
LITTLE CALUMET RIVER BASIN DEVELOPMENT COMMISSION – Adds IC 14-13-2-30 and IC 14-13-2-31 – Amends IC 14-13-2-7, IC 14-13-2-10, and IC 14-13-2-17 – Reduces the number of commission members from eleven to five. States that a commission member may not be an employee or elected official of a city, town, or county government. Requires the State Board of Accounts to audit the Commission's records on an annual basis.

HOUSE ENROLLED ACT 1001 (SS) – EFFECTIVE JULY 1, 2009  
COURT COSTS – Amends IC 33-37-5-21 and IC 33-37-7-8 – Requires the clerk of a city or town court to distribute semiannually to the auditor of state as the state share for deposit in the homeowner protection unit account established by IC 4-6-12-9 one hundred percent (100%) of the automated record keeping fees collected under IC 33-37-5-21 with respect to actions resulting in the accused person entering into a pretrial diversion program agreement under IC 33-39-1-8 or a deferral program agreement under IC 34-28-5-1.

SECTION J - DISPOSAL OF REAL OR PERSONAL PROPERTY

SALE OR TRANSFER OF REAL PROPERTY

All political subdivisions must follow IC 36-1-11 in disposing of property. However, certain transactions are exempted from the requirements of IC 36-1-11. These exemptions are listed in IC 36-1-11-1(b). [IC 36-1-11-1]

For purposes of IC 36-1-11, "**Property**" is defined as all fixtures and real property to be included in a disposal. [IC 36-1-11-2]

Assessed Value of Property is less than \$15,000

If the assessed value of a parcel of real property to be sold is less than \$15,000, based on the most recent assessment of the parcel or of the tract of which it was a part before it was acquired, the disposing agent may proceed as follows:

**Board Determination.** The disposing agent may determine that:

1. The highest and best use of the parcel is sale to an abutting landowner;
2. The cost to the public of maintaining the parcel equals or exceeds the estimated fair market value of the parcel; or
3. It is economically unjustifiable to sell the parcel under IC 36-1-11-4. [IC 36-1-11-5(c,d)]

**Notice.** Within ten (10) days after the disposing agent makes a determination under IC 36-1-11-5 (d), the disposing agent shall publish a notice in accordance with IC 5-3-1, identifying the tracts intended for sale by legal description and, if possible, by key number and street address. The notice must include the offering price and a statement that:

1. The property may not be sold to a person who is ineligible under IC 36-1-11-16; and
2. An offer to purchase the property submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:
  - a. Beneficiary of the trust; and
  - b. Settlor empowered to revoke or modify the trust.

At the time of publication of notice under the subsection, the disposing agent shall send notice by certified mail to all abutting landowners. This notice shall contain the same information as the published notice. [IC 36-1-11-5(e)]

**Property Appraisal.** The disposing agent shall also have each tract appraised. The appraiser must be professionally engaged in making appraisals, a person licensed under IC 25-34.1, or an employee of the political subdivision who is familiar with the value of tract. However, if the assessed value of the tract is less than six thousand dollars (\$6,000), based on the most recent assessment of the tract or of the tract of which it was a part before it was acquired, the disposing agent is not required to have the tract appraised. [IC 36-1-11-5(f)]

**Offer to Purchase.** If within ten days after the date of publication, the disposing agent receives an offer to purchase a parcel listed in the notice at or in excess of the offering price, the disposing agent shall conduct the negotiation and sale of the parcel as required in IC 36-1-11-4(c) through (g). [IC 36-1-11-5(g)]

**Offer to Purchase - Abutting Landowner.** If, within ten days after the date of publication of the notice, an offer to purchase the parcel at or in excess of the offering price is not received from any person other than the abutting landowner the disposing agent shall conduct the negotiation and sale of the parcel as follows:

1. If only one abutting landowner makes an eligible offer to purchase the tract, then without further appraisal or notice, offer to negotiate for the sale of the parcel with that abutting landowner.
2. If more than one abutting landowner submits an offer to purchase the parcel, the other abutting landowners who submit offers shall be informed of the highest offer received and be given an opportunity to submit one additional offer. The parcel shall be sold to the abutting landowner who submits the highest offer for the parcel.
3. If no abutting landowners submit an offer to purchase the parcel, the disposing agent may sell the parcel to any person who submits the highest offer for the parcel. [IC 36-1-11-5(h)]

#### Sale or Transfer of All Other Real Property

Any other sale or transfer of real property must comply with the following requirements:

**Appraisal.** The property must first be appraised by two licensed appraisers or employees of the political subdivision familiar with the value of the property. The appraisers shall make a joint appraisal of property. [IC 36-1-11-4(b)]

**Notice.** After the property is appraised, the disposing agent shall publish a notice two times, at least one week apart, with the second publication made at least three days before the event, setting forth the terms and conditions of the sale. If the disposing agent determines that the best sale of the property can be made by letting the bidders determine certain conditions of the sale (such as required zoning or soil or drainage conditions) as a prerequisite to purchasing the property, the disposing agent may permit the bidders to specify those conditions. The notice must state that bids will be received beginning on a specific date; that the sale will continue from day to day for a period determined by the disposing agent of not more than sixty days; and the property may not be sold to a person who is ineligible. [IC 36-1-11-4(c)]

**Bid.** A bid must be open to public inspection. A bidder may raise the bidder's bid, and that raise takes effect after the disposing agent has given written notice of the raise to the other bidders. [IC 36-1-11-4(d)]

**Auction.** The disposing agent may also engage an auctioneer licensed under IC 25-6.1 to conduct a sale by public auction. The auction may be conducted either at the time for beginning the sale in accordance with the public notice or after the beginning of the sale. The disposing agent shall give each bidder who has submitted a bid written notice of the time and place of the auction. Any advertising conducted by the licensed auctioneer is in addition to the notice required by law and shall include a detailed description of the property to be sold. [IC 36-1-11-4(e)]

1. Proposals to develop specifications shall be solicited through a request for proposals, which must include all of the following:
  - a. The factors or criteria that will be used in evaluating the proposals, including a statement that the property may not be leased to a person who is ineligible; and a proposal submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each beneficiary of the trust and each settlor empowered to revoke or modify the trust.
  - b. A statement concerning the relative importance of price and the other evaluation factors.
  - c. A statement concerning whether the proposal must be accompanied by a certified check or other evidence of financial responsibility.
  - d. A statement concerning whether discussions may be conducted with the offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
2. Notice of the request for proposals shall be given by publication in accordance with IC 5-3-1.
3. As provided in the request for proposals, discussion may be conducted with the offerors for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
4. Eligible offerors must be accorded fair and equal treatment with respect to an opportunity for discussion and revision of proposals.
5. After the procedures outlined in IC 36-1-11-12 have been completed, the disposing agent shall make a determination as to the most appropriate response to the request for proposals and shall dispose of the subject property in accordance with that response.

#### Sale and Rental Proceeds

Proceeds generated by the sale or rental of property should be receipted into the fund which originally purchased the property unless otherwise authorized by statute.

#### SALE OR TRANSFER OF SURPLUS PERSONAL PROPERTY [IC 5-22-22]

All political subdivisions must follow IC 5-22-22 in disposing of surplus personal property. However, certain transactions are exempted from the requirements of IC 5-22-22. These exemptions are listed in IC 5-22-22-1(b).

#### Definitions

**"Purchasing Agency"** means a governmental body that is authorized to enter into contracts by IC 5-22, rules adopted under IC 5-22, or by another law.

#### General Provisions

A purchasing agency may sell personal property that:

1. Has been left in the custody of an officer or employee of a governmental body and has remained unclaimed for more than one year; or

2. Belongs to the governmental body but is no longer needed or is unfit for the purpose for which it was intended. [IC 5-22-22-3]

#### Auction

If the property to be sold is one item with an estimated value of \$1,000 or more; than one item with an estimated total value of \$5,000 or more, the purchasing agency may engage an auctioneer licensed under IC 25-6.1 to advertise the sale and conduct a public auction. The advertising by an auctioneer must include a detailed description of the property to be sold. [IC 5-22-22-4]

The purchasing agency shall pay an auctioneer who conducts a sale under this section from the gross proceeds of the sale received before other expenses and liens are paid. [IC 5-22-22-4]

#### Internet Auction

The purchasing agency may sell surplus property using an Internet auction site that satisfies both of the following:

- (1) The site is approved by the Indiana Department of Administration.
- (2) The site is linked to the electronic gateway administered by the Indiana Office of Technology.

The purchasing agency's posting of the sale on the auction site must include a detailed description of the surplus property to be sold.

The purchasing agency may pay the costs of conducting the auction on the Internet site as required by the person maintaining the auction site.

#### Public Sale or Sealed Bids

If an auctioneer is not engaged under IC 5-22-22-4, or the surplus property is not sold through an Internet auction site under IC 5-22-22-4.5, the purchasing agency shall sell the property at a public sale or by sealed bids delivered to the office of the purchasing agency before the date of sale. Advertisement of the sale shall be made in accordance with IC 5-3-1. All sales shall be made to the highest responsible bidder. [IC 5-22-22-5]

#### Public or Private Sale or Transfer Without Advertising

If the personal property to be sold is one item with an estimated value of less than \$1,000, or more than one item with an estimated total value less than \$5,000, the purchasing agency may sell the property at a public or private sale or transfer the property, without advertising. [IC 5-22-22-6]

#### Recyclable Material

If the personal property to be sold is material that may be recycled and has been collected in conjunction with a recycling program, the purchasing agency may, without advertising, sell the property at public or private sale or transfer the property. [IC 5-22-22-7]

#### Worthless Property

If the property is worthless, it may be demolished or junked. Property may be considered worthless if the value of the property is less than the estimated costs of the sale and transportation of the property. [IC 5-22-22-8]

**ACCESSIBLE PARKING SPACES – (Continued)**

A parking facility must designate at least one (1) accessible parking space of every eight (8) accessible parking spaces as a van accessible parking space. A van accessible parking space must have an access aisle at least ninety-six (96) inches wide. A parking facility may group all van accessible parking spaces in a single location. A parking facility that:

- (1) is in existence on June 30, 1996 and ;
- (2) conforms to the specifications for the size and locations of parking spaces as the specifications that were in effect on June 30, 1996;

is not required to conform with the van accessible requirements until the first time the parking facility is resurfaced or restriped after June 30, 1996. (IC 5-16-9)

**ORDINANCE VIOLATIONS BUREAU**

The legislative body of a municipal corporation may establish, by ordinance or code, an ordinance violations bureau. Upon the creation of a bureau, the legislative body shall provide for the appointment of a violations clerk (who may be the clerk or clerk-treasurer of the municipal corporation) to be the administrator of the bureau.

If the legislative body does not establish an ordinance violations bureau, the clerk or clerk-treasurer of the municipal corporation is designated the violations clerk.

The violations clerk may accept written appearances, waiver of trial, admissions of violations, and payment of civil penalties of not more than two hundred fifty dollars (\$250) in ordinance violation causes, subject to the schedule prescribed under IC 33-36-3.

Upon the appointment or designation of the violations clerk as provided by IC 33-36-2-1, the legislative body shall designate, by ordinance or code, a schedule of ordinance and code provisions of the municipal corporation that are subject to admission of violation before the violations clerk and the amount of civil penalty to be assessed a violator who elects to admit a violation. Civil penalties shall be paid to, receipted, and accounted for by the clerk under procedures provided for by the state board of accounts. Such payments should be receipted to the general fund. Payment of civil penalties may be made in person, by mail, or to an agent designated by the legislative body.

A person charged with an ordinance or code violation is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the violations clerk. Upon such an admission, the clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under IC 33-36-3-1.

If a person charged with a violation wants to exercise the right to trial, the person shall appear before the violations clerk and deny the violation or enter a written denial with the clerk.

In a county having a consolidated city, the schedule of ordinance violations designated by a municipal corporation must also be approved by the city-county legislative body.

If a person:

- (1) Denies an ordinance or code violation;
- (2) Fails to satisfy a civil penalty assessed by the violations clerk after having entered an admission of violation; or
- (3) Fails to deny or admit the violation;

**ORDINANCE VIOLATIONS BUREAU – (Continued)**

the clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the municipal corporation.

Proceedings in court against the person shall then be initiated for the alleged ordinance violations.

All sums collected by the violations clerk as civil penalties for ordinance violations shall be accounted for and paid to the municipal corporation as provided by law.

An ordinance violation admitted does not constitute a judgment for the purposes of IC 33-37, and an ordinance violation costs fee may not be collected from the defendant under IC 33-37-4. In addition, an ordinance violation processed may not be considered for purposes of IC 33-37-7-6 when determining the percentage of ordinance violations prosecuted in certain courts. (IC 33-36-3-6)

IC 36-1-6-3 excludes moving vehicle traffic violations from being enforced under this procedure.

**CITY ATTORNEY – POWERS AND DUTIES - COMPENSATION**

IC 36-4-9-12 lists the powers and duties of the head of the city department of law. These include:

- (1) manage the legal affairs of the city;
- (2) prosecute violators of city ordinances;
- (3) give legal advice to the officers, departments, boards, commissions, and other agencies of the city;
- (4) draft ordinances or other legal papers for the city and its departments, boards, commissions, and other agencies when requested by the proper officer;
- (5) maintain custody of the records of his office and turn them over to his successor in office;
- (6) make all title searches and examine all abstracts required in public work of any kind, including opening, widening, or changing a street, alley, or public place;
- (7) promptly commence all proceedings necessary or advisable for the protection or enforcement of the rights of the city or the public;
- (8) use all diligence to collect costs, fees, and recoveries within the scope of his duties;
- (9) report, in writing to the city executive all matters that he considers important; and
- (10) report, in writing, to the city fiscal officer all judgments for which the city is liable.

The compensation of a city attorney should be set out in the city's salary ordinance. If the city attorney is to receive additional compensation for services performed in connection with the creation or the operation of a municipally owned function or utility, the amount of such additional compensation should also be listed in the salary ordinance and be properly approved by the governing body over the utility, the mayor, and the common council.

We recommend that if a city hires a city attorney through an employment contract, the salary ordinance should incorporate the provisions of such contract. Such contract could provide for a specified dollar sum for annual compensation for normal services plus provisions for payment at hourly rates, or standard fee arrangements, for unique services such as litigation, bond issues, work with administrative agencies, or other similar services.

It is our audit position that, unless otherwise specified in an employment contract, routine litigation and work on general obligation bond issues fall within the duties of the municipal attorney.

**CITIES AND TOWNS BULLETIN  
AND UNIFORM COMPLIANCE GUIDELINES**

**HOUSE ENROLLED ACT 1001 (SS) – EFFECTIVE JULY 1, 2009 – (Continued)**

**GOLF CARTS** – Adds IC 9-21-8-57 – States that a golf cart may not be operated on a highway except in accordance with an ordinance adopted under IC 9-21-1-3(a)(14) and IC 9-21-1-3.3(a) authorizing the operation of a golf cart on the highway. See Public Law 150 for other similar provisions.

**NORTHERN INDIANA REGIONAL TRANSPORTATION DISTRICT** – Adds IC 8-24 – Authorizes a referendum to create a regional transportation district in Lake, LaPorte, Porter, and St. Joseph counties. Such district would be created effective January 1, 2010 if at least two counties vote in favor of creating the district. Establishes several new boards to govern transportation services in the district.

**1925 AND 1937 POLICE AND FIREFIGHTERS PENSION PLANS – ACCOUNT BALANCES** – Adds IC 36-8-6-5.5 and IC 36-8-7-9.5 – Amends IC 36-8-6-5, IC 36-8-7-9, and IC 36-8-7-14 – States that balances in the 1925 and 1937 pension funds that (1) accrued from property taxes; (2) are not necessary to meet the pension, disability, and survivor benefit payment obligations of the 1925 or 1937 funds because of amendments to IC 36-8-6-5.5(c) or IC 36-8-7-9.5, may be used to pay any or all of the following: (1) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1925 and 1937 funds. (2) The municipality's employer contributions under IC 36-8-8-6. (3) The contributions paid by the municipality for a member under IC 36-8-8-8(a). The maximum amount that may be used is equal to the sum of: (1) the unencumbered balance of the 1925 and 1937 funds on December 31, 2008 plus (2) the amount of property taxes: (A) imposed for an assessment date before January 16, 2008, for the benefit of the 1925 and 1937 funds; and (B) deposited in the 1925 and 1937 funds after December 31, 2008.

**CITIES WITH RIVERBOATS OR RACETRACK GAMBLING VENUES – USE OF GAMING REVENUES FOR SCHOOL BUILDINGS** – Adds IC 36-4-8-15.5 – Allows a city with a riverboat or race track gambling to do any of the following: (1) Enter into one (1) or more agreements or leases with the school corporation or another public or private entity to provide for the construction or renovation of a school building that will be used by the school corporation. The agreements and leases may provide for the financing of the construction or renovation of the school building. (2) A school building constructed or renovated as provided in subdivision (1) may be donated, sold, or leased to the school corporation under the conditions determined by the school corporation and the city. (3) The city may use any revenues (including any gaming revenues) to pay for construction or renovation of the school building or to finance the construction or renovation of school building.

**YOUTH SPORTS COMPLEX ADMISSIONS TAX – INDIANAPOLIS** – Adds IC 6-9-42 Allows the City of Indianapolis to adopt an admission tax on admissions to the City's youth sports complex. Such tax is to be deposited in a city admissions tax fund and used for the payment of certain infrastructure and debt expenses associated with the construction of the complex.

### PROMOTION OF CITY AND TOWN BUSINESS

IC 36-7-2-7 allows cities and towns to promote economic development and tourism. Such statute replaced a prior law which authorized cities and towns to budget and appropriate funds from the general fund to pay the expense of, or to reimburse city or town officials as the case may be, for expenses incurred in promoting the best interest of the city or town. Accordingly, a Home Rule ordinance needs to be adopted in accordance with IC 36-1-3 in order to enable a city or town to pay for such expenses. Additionally, an appropriation for such expenses must also be obtained.

In an effort to assist cities and towns that have not passed an enabling ordinance but who wish to establish the promotion of business ordinance, we are repeating wording contained in the old statute. Many municipalities have used similar wording in their enabling ordinance.

“City and town councils are authorized to budget and appropriate funds from the general fund of the city, or town, to pay the expense of or to reimburse city officials or town officials, as the case may be, for expenses incurred in promoting the best interest of the city or town. Such expenses may include, but not necessarily be limited to, rental of meeting places, meals, decorations, memorabilia, awards, expenses incurred in promoting industrial, commercial, and residential development, expenses incurred in developing relations with other units of government and any other expenses of a civic or governmental nature deemed by the mayor or the town council to be in the interest of the city or town.”

This is furnished only for your information. Each city and town should establish, by ordinance, the parameters for such appropriations and expenditures. Such ordinance should list the specific types of promotional expenses which can be paid from moneys appropriated for such purpose. Please note that excessive amounts expended for employee meals, awards, gifts and similar expenses could be considered an audit result and comment item in an audit.

### GAS MONEY GRANTS

If a city or town receives extra money for the purchase of gasoline while participating in a Criminal Justice Institute grant program, such money could be receipted to a separate Gas Grant fund and could be spent without appropriation as long as the money was used for the purchase of fuel.

### COPY FEES

City and Town councils shall establish a fee schedule by ordinance for the certification, copying, or facsimile machine transmission of documents. The fee may not exceed the actual cost of certifying, copying, or facsimile transmission of the document and the fee must be uniform throughout the city or town and be uniform to all purchasers. Actual cost does not include labor costs or overhead cost. (IC 5-14-3-8)

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

### **ENCUMBERED APPROPRIATIONS – BALANCE AVAILABLE – (Continued)**

We suggest the proper officials of the city or town make a listing of these encumbered items and make it part of their minutes in their last business meeting of the year. The Department of Local Government Finance should be sent a copy of the listing by the end of January.

Keep in mind the appropriations encumbered and carried forward can be used for no other purpose other than the purchase order or the contract for which they were appropriated.

### **DORMANT FUND BALANCES - TRANSFERS AUTHORIZED**

IC 36-1-8-5 gives city and town councils authority to order the transfer of any unused and unencumbered balance in any fund raised by a general or special tax levy, the purposes of which have been fulfilled, to the general fund or rainy day fund. This action may be taken by a city or town council at any public meeting.

IC 36-1-8-5 states in part:

- “(a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.
- (b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise..... (2) Funds of a municipality, to the general fund or rainy day fund of the municipality...”

### **ANNUAL OPERATIONAL REPORT - LOCAL ROAD AND STREET OPERATIONS**

Indiana Code 8-17-4.1 requires an operational report to be prepared by all cities and towns having a population of 20,000 or more with road and street responsibilities. The report shall list all receipts and disbursements related to the municipality's road and street system made from any of the municipal funds.

A copy shall be filed with the State Board of Accounts, the governing body of the municipality, LTAP, and the Planning Division of the State Department of Transportation by June 1 of the year next following the operational report year. The report shall also be made available to the public and press.

The annual operational report shall be prepared and filed on City and Town Form No. 225. A copy of the report will be furnished to all affected city and town offices by the State Board of Accounts in January.

**PUBLIC LAW 65 – HOUSE ENROLLED ACT 1062 – EFFECTIVE JULY 1, 2004**

**CREDIT CARDS – CITY AND TOWN COURTS** – Amends IC 33-37-6-2 – Requires a court clerk to collect a credit card service fee equal to the vendor transaction charge or discount fee from persons using bank cards or credit cards to pay court fees.

**PUBLIC LAW 66 – HOUSE ENROLLED ACT 1080 EFFECTIVE JULY 1, 2004**

**INDIANA BUSINESS PURCHASING PREFERENCE** – Amends IC 5-22-15-20 - Allows cities and towns to adopt rules to provide that a contract shall be awarded to the lowest responsive and responsible offeror, if:

- (1) the offeror is an Indiana business; or
- (2) the offeror is a business from a state bordering Indiana and the offeror's home state does not provide a preference to the home state's businesses more favorable than is provided by Indiana law to Indiana business.

**PUBLIC LAW 67 – HOUSE ENROLLED ACT 1098 – EFFECTIVE JULY 1, 2005**

**CHILD RESTRAINT SYSTEMS** – Amends IC 9-13-2-23, IC 9-19-11-1, IC 9-19-11-3, IC 9-19-11-6 – Adds IC 9-19-11-3.3 IC 9-19-11-3.6, IC 9-19-11-3.7 and IC 9-19-11-9 – Changes the laws dealing with operators of vehicles who fail to properly restrain and fasten children under 16 and 8 years of age. Requires courts to set aside all amounts for judgments for such Class D infractions for deposit in the State's child restraint system account within the State general fund.

**PUBLIC LAW 72 – HOUSE ENROLLED ACT 1207 – EFFECTIVE JULY 1, 2004**

**ALCOHOLIC BEVERAGE PERMITS** – Adds and amends several sections in IC 7.1-3 – Allows for self service of alcohol in a suite in certain arenas, stadiums and convention centers.

**PUBLIC LAW 79 – HOUSE ENROLLED ACT 1345 – EFFECTIVE MARCH 17, 2004**

**MILITARY LEAVE – ELECTED OFFICIALS** – Adds IC 5-9-4 – Allows city and town elected officials who are members of the armed forces of the United States to take a leave of absence from their positions when called to active duty. Sets out procedures for notification and for the temporarily filling of such positions.

**PUBLIC LAW 81 – HOUSE ENROLLED ACT 1365 – EFFECTIVE VARIOUS DATES**

**RAINY DAY FUND** – Amends IC 36-1-8-5.1 – Allows cities and towns to establish a rainy day fund by adopting an ordinance which must also state the sources of funding and uses of the fund. Sources may include unused and unencumbered funds, special distributions of CAGIT, COIT, and CEDIT funds, or any other sources not prohibited by law. The fund requires appropriation in the same manner as other funds that receive tax money and may be used for any lawful purpose stated in the establishing or amended ordinance creating the fund. The amount of the transfer is limited to 10% of city or town's total annual budget in any fiscal year. Transfers to the rainy day fund can only be made on or after January 1 and before March 1 of the following subsequent year.

**PUBLIC WORKS PROJECTS FINANCING** – Adds IC 36-9-41 - Allows cities and towns to borrow monies necessary to finance a public works project from a financial institution in Indiana by executing a negotiable note for projects not more than \$2 million dollars. Requires cities and towns to appropriate enough money annually to pay off such note. The amount of the note is subject to the city or town 2% constitutional debt limitation. Taxpayers may petition against such notes.

**PUBLIC LAW 83 – HOUSE ENROLLED ACT 1435 – EFFECTIVE JULY 1, 2004**

**INDIANAPOLIS AIRPORT AUTHORITY** – Amends IC 8-22-3-4.1- Increases the number of members of the authority board from seven to eight. Adds an advisory board member from an adjacent county.

**FIRST CLASS CITIES** – Amends IC 36-4-1-1 – Raises the population to be classified as a first class city from 250,000 to 500,000.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

### PUBLIC RECORDS – RETENTION SCHEDULES

The State's Oversight Committee on Public Records approved retention schedules for city and town financial records. The schedules list prescribed forms and the length of time each form is required to be kept. There is a separate retention schedule for all cities and all towns above 5,000 population and one for all towns below 5,000 population. Copies of the retention schedules are in the Accounting and Uniform Compliance Guidelines Manual for Cities and Towns.

Records may be destroyed in accordance with the schedules and without permission of the local County Commission on Public Records. However, cities and towns must submit documentation of such destruction to the County Commission and the State Archives.

### NEW HIRE REPORTING REQUIREMENTS

The following is an excerpt from information provided on the Indiana Department of Workforce Development's website which can be found at [www.in-newhire.com](http://www.in-newhire.com).

Within twenty business days of a new employee's date of hire, rehire, or recall, all employers are to submit to the Indiana Department of Workforce Development (department) a report containing the following information:

- a. the new employee's full name, address, and social security number;
- b. the employer's name, address, and federal tax identification number; and
- c. the employee's start date.

### ELECTRONIC REPORTING

Create your own Electronic New Hire Reports. For Online Reporting, use the Web site to report your new hires.

For New Hire Data Entry Software use the software downloaded from this Web site. Employers can simply fill in employee information and then electronically send in their new hire reports using their own communications software. The file can also be copied to a diskette and then mailed to the New Hire Reporting Center.

### NON-ELECTRONIC REPORTING

If your software is unable to export your new hire information in an electronic format, you might be able to have your software create a printed list containing your new hire data.

# CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES  
ISSUED BY STATE BOARD OF ACCOUNTS

---

March 2009

## JUNE TRAINING SCHOOL

This year's June Training School will be held in French Lick as part of the Indiana League of Municipal Clerks and Treasurers' Annual Conference during the week of June 14 through June 18, 2009.

The Conference and School will be held at the French Lick Resort Event Center.

The State Board of Accounts will be conducting two (2) days of training (June 16 and 17) at the Conference which will be State-called meeting days.

Please mark these dates on your calendar. An explanatory letter along with a tentative agenda will be mailed prior to the meeting.

## TRAVEL EXPENSE

The following sets forth the audit position of the State Board of Accounts with regard to reimbursements made by local governmental units to their officers and employees for travel and meal expenses.

A local unit may reimburse such persons for actual miles traveled in their own motor vehicles on official business of the local unit at a reasonable rate per mile as fixed by an ordinance or resolution of the unit's legislative body. The mileage rate should be fixed by the board or commission having authority to approve claims for travel expenses. No particular mileage rate has been set by the State of Indiana for local units of government and, consequently, the mileage rate lies within the discretion of legislative body, board or commission, unless otherwise provided by statute. The body setting the mileage rate should also determine whether parking fees and toll charges are included in the rate or, on the other hand, whether such expenses are to be reimbursed separately based on the submission of receipts.

Reimbursed mileage should not include travel to and from the officer's or employee's home and regular place of employment. If more than one person rides in the same vehicle, only one mileage reimbursement is allowable. General Form 101 (or an approved substitute) should be used for claiming mileage. The odometer reading columns on this form are to be used only when the distance between points cannot be determined by fixed mileage or official highway maps.

When traveling outside the local unit's boundaries on official business, officers and employees may also be reimbursed for meals, lodging, and incidental expenses as defined in the travel policy. The claim for reimbursement should be supported by itemized receipts from hotels, restaurants, and taxi cabs used by the officer or employee while traveling on official business.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

It is permissible for the legislative body of the local unit or the board or commission having the authority to approve claims to adopt an ordinance or resolution establishing a reasonable per diem rate intended to cover travel expenses other than hotel and mileage costs and the officer or employee may be reimbursed on the basis of such a per diem rate in lieu of submitting receipts. If a fixed per diem rate is established by policy, the policy should clearly indicate which type of expenses, in addition to meals, are included in the rate and which related expenses are to be reimbursed on the basis of actual receipts being submitted by the officer or employee. The policy should also define the local unit's boundaries for purposes of reimbursing travel; i.e. outside a 50-mile radius of the office, outside of the county, etc. The policy should cover a proportionate reduction in the per diem rate when meals are provided by an outside party.

When state statutes (See the two following articles) govern the amounts of allowable travel reimbursements, those statutes supersede local policy. Also, when determining the reasonableness of a mileage rate or per diem rate, consideration should be given to rates established by the State of Indiana and the Federal government. The local unit should, however, consider the income tax implications of setting its rates higher than the current Federal rates.

In all cases, an officer or employee requesting reimbursement for overnight travel is required to submit a receipt from the hotel or other meeting place where such accommodations were provided.

### MEAL EXPENSE ADVANCES

IC 5-11-10-1.6 allows cities and towns to make meal expense advances to city or town employees who will be traveling on official city or town business if the city or town fiscal body has adopted an ordinance allowing the advance payment. The ordinance must specify a maximum amount that may be paid in advance and specify the required invoices and other documentation that must be submitted by city or town employees. The ordinance must provide for reimbursement from the wages of city or town employees if the employees do not submit the required invoices and documentation.

### STATE CALLED MEETINGS – TRAVEL EXPENSES

IC 5-11-14-1 allows for city and town officials who attend State-called meetings to be reimbursed for travel expenses from unappropriated funds and provides that a claim for reimbursement of travel expenses incurred while attending a State-called meeting may not be denied by the body responsible for the approval of the claim if the claim complies with IC 5-11-10-1.6 and IC 5-11-14-1.

### CITIES AND TOWNS MANUAL AND BULLETINS

The Accounting and Uniform Compliance Guidelines Manual for Cities and Towns and the Cities and Towns Bulletins are available on our web page at [www.in.gov/sboa](http://www.in.gov/sboa). Future distributions of these publications will be made electronically to the email address listed in the ILMCT Directory. If your email address has changed since the last publication of the Directory, please notify us of your new address.

OLD OUTSTANDING CHECKS NOT RETURNED – CITY AND TOWN COURTS  
(Effective January 1, 2002)

In order to eliminate old outstanding checks from the records, the court should perform the following:

1. Issue a formal stop payment order to the bank upon which each check is drawn.
2. Enter the amount of each check as a receipt in the cash book. Post the respective amounts to the trust column of the cash book and enter each amount in the name of the payee in the register of trust funds.
3. Since the checks have never cleared the bank, the amount is still on deposit. Therefore, when all such checks are charged to the records and reinstated in the trust register, the original check numbers will be eliminated as outstanding in the next reconciliation with the bank.
4. If, at the time such checks are restored to the records, the original dates indicate the checks have been outstanding for five or more years, they should be paid over to the Attorney General immediately. The original date should be shown in the register of trust. If the checks are not five years old they should be held until the five year period has elapsed.

The entry in the cash book should be:

"Old Outstanding Check No. \_\_\_\_\_ issued \_\_\_\_\_ (date) \_\_\_\_\_, to \_\_\_\_\_ (Name) \_\_\_\_\_," and extend the amounts to the total and trust fund columns.

Since outstanding checks of a city or town court are not included within the meaning of IC 5-11-10.5, city and town courts are to follow the preceding steps in handling old outstanding checks.

VACATION, SICK, AND OTHER LEAVE

Ordinances Required

Employees of the political subdivisions of the state may be granted a vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance of the legislative body of a city or town or by the controlling board of municipally owned utility, or by the board of directors or regents of a cemetery. Payment of vacation benefits so granted may be made in advance of any vacation taken by such an employee (IC 5-10-6-1).

It is noted the use of "may" provides authority without mandating such fringe benefits.

It is imperative for all cities and towns to have written guidelines and policies concerning fringe benefits, vacation and sick leave. Such policies should be in the form of an ordinance. If your municipality had no such written guidelines and is now, or wishes in the future, to provide fringe benefits to their employees please insist that the proper officials pass an ordinance concerning these fringe benefits. In the absence of an ordinance, in future audits the State Board of Accounts will find it necessary to take an audit exception for any such payments made during the period of the audit.

Furthermore, it is our audit position that if an employee uses leave time, he/she should not be working when such leave time is scheduled. Such employee cannot be compensated twice for the same work period.

VACATION, SICK, AND OTHER LEAVE (Continued)City Officers and Employees – Prior Payment of Vacation Leave – Authority

IC 36-4-8-9 states: "... One (1) to three (3) days before the vacation leave period of a city officer or employee begins, the city may pay him the amount of compensation he will earn while he is on vacation."

Town Officers and Employees – Prior Payment of Vacation Leave - Authority

IC 36-5-4-7 states: "... One (1) to three (3) days before the vacation leave period of a town officer or employee begins, the town may pay him the amount of compensation he will earn while he is on vacation leave."

ADDITIONAL APPROPRIATIONS

IC 6-1.1-18-5 states as, as follows:

- "(a) If the proper officers of a political subdivision desire to appropriate more money for a particular year than the amount prescribed in the budget for that year as finally determined under this article, they shall give notice of their proposed additional appropriation. The notice shall state the time and place at which a public hearing will be held on the proposal. The notice shall be given once in accordance with I.C. 5-3-1-2(b).
- (b) If the additional appropriation by the political subdivision is made from a fund that receives:
  - (1) distributions from the motor vehicle highway account established under I.C. 8-14-1-1 or the local road and street account established under I.C. 8-14-2-4; or
  - (2) revenue from property taxes levied under I.C. 6-1.1; the political subdivision must report the additional appropriation to the state board of tax commissioners. If the additional appropriation is made from a fund described under this subsection, subsections (f), (g), (h), and (i) apply to the political subdivision.
- (c) However, if the additional appropriation is not made from a fund described under subsection (b), subsections (f), (g), (h), and (i) do not apply to the political subdivision. Subsections (f), (g), (h), and (i) do not apply to an additional appropriation made from the cumulative bridge fund if the appropriation meets the requirements under I.C. 8-16-3-3(e).
- (d) A political subdivision may make an additional appropriation without approval of the state board of tax commissioners if the additional appropriation is made from a fund that is not described under subsection (b). However, the fiscal officer of the political subdivision shall report the additional appropriation to the state board of tax commissioners.
- (e) After the public hearing, the proper officers of the political subdivision shall file a certified copy of their final proposal and any other relevant information to the state board of tax commissioners.
- (f) When the state board of tax commissioners receives a certified copy of a proposal for an additional appropriation under subsection (e), the board shall determine whether sufficient funds are available or will be available for the proposal. The determination shall be made in writing and sent to the political subdivision not more than fifteen (15) days after the board receives the proposal.

PARKS AND RECREATION – NONREVERTING CAPITAL FUND  
AND NONREVERTING OPERATING FUND

IC 36-10-3-20 concerns establishment and use of a special nonreverting capital fund and states:

“(a) Upon the request of the board, the fiscal body of the unit may establish, by ordinance, a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the board’s annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance. The fiscal body may not repeal the ordinance under suspension of the rules.”

IC 36-10-3-22 relates to charging fees for park services and authorizes establishing either/or a special nonreverting operating fund or a special nonreverting capital fund and states:

“(a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(b) The unit’s fiscal body may establish by ordinance upon request of the board:

- (1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the unit’s fiscal body; or
- (2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the unit’s fiscal body.”

The unit’s fiscal body shall designate the fund or funds into which the unit’s fiscal officer (or county treasurer ) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the unit’s fiscal officer (or county treasurer) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the unit’s general fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.”

Official Attorney General Opinion No. 54 of 1965 states there is no expressed authorization by the legislature to the park board to expend the activity fees in the special nonreverting fund without prior appropriation, and such money cannot be disbursed without a prior appropriation ordinance having been adopted according to law by the city council, county council or town council.

Legislative intent was for the park special nonreverting operating fund to pay for park and recreation activities that were to be conducted on a self-supporting basis. For instance, such activities as horse shoe tournaments, swimming meets, little league, arts and crafts, and other similar activities. The special nonreverting capital fund was to be funded from an item within the park and recreation board’s annual budget with an appropriation made for “these specific purposes.” It was never suggested such activities should be undertaken in an effort to relieve local tax levies.

PARKS AND RECREATION – NONREVERTING CAPITAL FUND  
AND NONREVERTING OPERATING FUND (Continued)

Notwithstanding apparent legislative intent, with the passage of the aforementioned statutes along with the authority provided in IC 36-1-3, the Home Rule Statute, we feel the city common council or town council has the authority to create by ordinance as many funds as they feel necessary to operate their unit. When nonreverting funds, capital or operating, are established properly pursuant to the statutes mentioned, no audit exceptions will be taken by the State Board of Accounts. An article in the September, 2000 Cities and Towns Bulletin sets out the State Board of Accounts audit position relating to the creation and use of nonreverting funds. The article also lists items that should be included within the enabling ordinances.

There are three situations that should be considered when creating the nonreverting funds.

(1) On diverting revenues from the Park Operating Fund to the new nonreverting funds, this will reduce the revenue available for funding operating fund expenditures.

(2) All expenditures from the nonreverting operating and/or nonreverting capital funds must have been authorized by the enabling ordinance(s) and prior appropriation(s) must be available. The appropriations need not go before the Department of Local Government Finance but do need approval by “the board or the unit’s fiscal body” for the nonreverting operating fund and the “unit’s fiscal body” for the nonreverting capital fund.

(3) If the city or town appeals to the local government tax control board of the Department of Local Government Finance for an excessive levy, the control board may insist that any balance or balances of such nonreverting funds be transferred to the park operating fund prior to any consideration of relief to the operating fund.

PENSION PLANS

In reviewing the Indiana Code, the following pension plans are available to employees of a city or town. Pursuant to IC 5-10.2-2-1, a city or town does not have authority to establish a pension plan by ordinance, resolution, or contract after January 1, 1995, without specific statutory authority.

	<u>Indiana Code</u>
Public Employees’ Retirement Fund	5-10.3
Police Pension Fund – First Class Cities	36-8-7.5
1925 Police Pension Fund	36-8-6
1937 Firefighter’s Pension Fund	36-8-7
1977 Police Officers’ and Firefighters’ Pension & Disability Fund	36-8-8
Municipal Utility Employees’ Pension Fund	8-1.5-3-7
City Hospitals - Third Class Cities	16-23-1-25(c)
Housing Authorities	36-7-18-10(d)
Department of Redevelopment	36-7-14-12.2(15)
Deferred Compensation	5-10-1.1

Federally authorized individual retirement accounts and social security are the only other pension plans available to city and town employees. Inquiries relative to participation in the Public Employees’ Retirement Fund should be directed to the Public Employees’ Retirement Fund, Suite 800, Harrison Building, 143 West Market Street, Indianapolis, Indiana, 46204.

# CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES  
ISSUED BY STATE BOARD OF ACCOUNTS

December 2009

## YEAR END DUTIES

The following is a listing of duties and reports that occur each year end. All of the articles have been published in this issue.

	<u>Bulletin Date</u>	<u>Page</u>
Fire Protection Contracts	This Issue	4
Encumbering Appropriations	This Issue	2-3
Cancellation of Warrants - Old Outstanding Checks	This Issue	2
Publication of Annual Report in Pamphlet Form - 2nd Class Cities	This Issue	6
Annual Report	This Issue	5
Certification of Names and Addresses to County Treasurer	This Issue	4-5
Report of Names, Addresses, Duties and Compensation of Public Employees	This Issue	4
Annual Operational Report – Local Road and Street Operations	This Issue	3
Dormant Fund Balances - Transfers Authorized	This Issue	3

## STATE BOARD OF ACCOUNTS INTERNET ADDRESSES

Homepage: <http://www.in.gov/sboa>

Charlie Pride: [cpride@sboa.in.gov](mailto:cpride@sboa.in.gov)

Todd Austin: [taustin@sboa.in.gov](mailto:taustin@sboa.in.gov)

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

Page 2

December 2009

### **CANCELLATION OF WARRANTS – OLD OUTSTANDING CHECKS**

Pursuant to IC 5-11-10.5, all checks outstanding and unpaid for a period of two years as of December 31 of each year shall be declared cancelled.

Not later than March 1 of each year, the controller or clerk-treasurer shall prepare or cause to be prepared a list in duplicate of all checks outstanding for two or more years as of December 31 last preceding. The original copy shall be filed with the city or town council and the duplicate copy maintained by the controller or clerk-treasurer of the city or town. The controller or clerk-treasurer shall enter the amounts so listed as a receipt to the fund or funds upon which they were originally drawn and remove the checks from the list of outstanding checks. If the fund from which the check was originally drawn is not in existence or cannot be ascertained, the amount of the outstanding check shall be receipted into the general fund of the city or town.

### **FEDERAL AND STATE MILEAGE RATES**

It is our understanding that the Federal mileage rate will be reduced from 55 cents per mile to 50 cents per mile, effective January 1, 2010. The State mileage rate is 40 cents per mile.

### **SOCIAL SECURITY TAX BASE CHANGES JANUARY 1**

The 2009 contribution rate will remain at a total of 15.3 percent. The tax rate for both employees and employer for 2009 will be 7.65 percent. (6.2% Social Security and 1.45% Medicare)

We further understand that the maximum amount of earnings that will be subject to Social Security contributions will be \$106,800 effective January 1, 2010, unchanged from 2009.

Please contact the Internal Revenue Service at 1-800-829-1040 if you should have questions on this matter.

### **ENCUMBERED APPROPRIATIONS – BALANCE AVAILABLE**

With the opening of a new budget year and a new set of ledgers, it is to the advantage of a municipality to review the unpaid purchase orders and contracts which remain on the ledgers as "encumbered."

Those items under purchase order or contract are to be added for each appropriation account and the total carried to the new 2010 corresponding account. The actual unpaid amount of the purchase orders or contracts should be totaled and shown as a separate amount on the appropriation ledger sheet for 2010, with proper explanation, and added to the 2010 appropriation for the same purpose. By properly carrying out this procedure, the 2010 budget will not be expected to stand any expense not anticipated in making the budget.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

### **ENCUMBERED APPROPRIATIONS – BALANCE AVAILABLE – (Continued)**

We suggest the proper officials of the city or town make a listing of these encumbered items and make it part of their minutes in their last business meeting of the year. The Department of Local Government Finance should be sent a copy of the listing by the end of January.

Keep in mind the appropriations encumbered and carried forward can be used for no other purpose other than the purchase order or the contract for which they were appropriated.

### **DORMANT FUND BALANCES - TRANSFERS AUTHORIZED**

IC 36-1-8-5 gives city and town councils authority to order the transfer of any unused and unencumbered balance in any fund raised by a general or special tax levy, the purposes of which have been fulfilled, to the general fund or rainy day fund. This action may be taken by a city or town council at any public meeting.

IC 36-1-8-5 states in part:

- “(a) This section applies to all funds raised by a general or special tax levy on all the taxable property of a political subdivision.
- (b) Whenever the purposes of a tax levy have been fulfilled and an unused and unencumbered balance remains in the fund, the fiscal body of the political subdivision shall order the balance of that fund to be transferred as follows, unless a statute provides that it be transferred otherwise..... (2) Funds of a municipality, to the general fund or rainy day fund of the municipality...”

### **ANNUAL OPERATIONAL REPORT - LOCAL ROAD AND STREET OPERATIONS**

Indiana Code 8-17-4.1 requires an operational report to be prepared by all cities and towns having a population of 20,000 or more with road and street responsibilities. The report shall list all receipts and disbursements related to the municipality's road and street system made from any of the municipal funds.

A copy shall be filed with the State Board of Accounts, the governing body of the municipality, LTAP, and the Planning Division of the State Department of Transportation by June 1 of the year next following the operational report year. The report shall also be made available to the public and press.

The annual operational report shall be prepared and filed on City and Town Form No. 225. A copy of the report will be furnished to all affected city and town offices by the State Board of Accounts in January.

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

### **FIRE PROTECTION CONTRACTS WITH VOLUNTEER FIRE COMPANIES**

IC 36-8-12-3 authorizes cities and towns to enter into agreements with one or more volunteer fire companies that maintain adequate firefighting service for the use and operation of firefighting apparatus and equipment owned by the volunteer fire company, including the service of operators of the apparatus and equipment.

IC 36-8-12-4 states the contract must provide an amount determined by negotiation between the municipality and volunteer fire company. The consideration must include the amounts the unit is required to pay under IC 36-8-12 for insurance premiums and clothing, automobile, and other allowances.

If the contractual agreement is properly drawn, an added benefit gained is the elimination of the problem of the governmental unit reporting clothing and auto allowances to the Internal Revenue Service and the Indiana Department of Revenue. Since the contractual payments are lump sum to the volunteer fire company, the volunteer fire company assumes the responsibility for making the payments of allowances to the volunteer firefighters and for reporting of such payments.

Year end is a good time to review existing contracts for fire protection. If renewals or changes in contracts are necessary, such renewals or changes should be made under the guidance of the city or town attorney. All agreements for fire protection should be in writing and the agreements must be preserved as any other public documents. There is no statutory authority to make contractual payments to volunteer fire companies unless an agreement has been entered into.

### **REPORT OF NAMES, ADDRESSES, DEPUTIES AND COMPENSATION OF PUBLIC EMPLOYEES**

All cities and towns must file with the State Examiner, State Board of Accounts, 302 West Washington St., Room E418, Indianapolis, Indiana, 46204, on or before January 31, Form 100-R, a certified Report of Names, Addresses, Duties and Compensation of Public Employees. This report is required by IC 5-11-13. If a computer printout can supply all of the required information, it can be substituted in place of Form 100-R as long as it contains the certificate section on the last page of the form. Only the business address of each officer or employee listed is to be included on the form. An electronic version of the form is available on our website at [www.in.gov/sboa](http://www.in.gov/sboa).

# CITIES AND TOWNS BULLETIN

## AND UNIFORM COMPLIANCE GUIDELINES

### **CERTIFICATION OF NAMES AND ADDRESSES TO COUNTY TREASURER**

IC 6-1.1-22-14 state that on or before June 1 and December 1 of each year, the disbursing officer of each political subdivision shall certify the name and address of each person who has money due the person from the political subdivision to the county treasurer of each county in which the political subdivision is located. Upon the receipt of this information, the county treasurer shall search the records to ascertain if any person so certified is delinquent in the payment of property taxes.

IC 6-1.1-22-15 states that if the county treasurer finds that a person whose name is certified to him under 6-1.1-22-14 is delinquent in the payment of taxes, he shall certify the name of that person and the amount of delinquency to the official of the political subdivision who is to make payment to the person. The disbursing officer shall periodically make deductions from money due the person and shall pay the amount of these deductions to the county treasurer.

### **ANNUAL REPORT**

IC 5-3-1-3 provides that each city controller or city and town clerk-treasurer shall have published an annual report of the receipts and expenditures of such city or town within sixty days after the close of each calendar year.

The annual report is to be published one time in two newspapers unless there is only one newspaper in the city or town, in which case publication in the one newspaper is sufficient. If no newspaper is published in the city or town, then publication is to be made in a newspaper published in the county in which the city or town is located and that circulates within the city or town.

All second class cities and those cities and towns that prepare a Comprehensive Annual Financial Report (CAFR) will complete form CTAR-2. All the other cities and towns will complete CTAR-1.

IC 5-3-1-3 only requires Part 1 to be published. In our opinion, this publication will satisfy state statutes, Local Governmental Data Base input documents, and Bureau of Census annual reporting requirements. If questions arise, please call (317) 232-2521.

Instructions were sent to all municipal fiscal officers early in December.

### **PUBLICATION OF ANNUAL REPORT IN PAMPHLET FORM SECOND CLASS CITIES**

IC 36-4-10-5(b)(5) requires the city fiscal officer of a second class city to “submit under oath to the city legislative body a report of the accounts of the city published in pamphlet form and showing revenues, receipts, expenditures, and the sources of revenues.” It appears furnishing the 6, would fulfill the requirements of this statute. Please note that this statute does not apply to Towns or Third Class Cities.