

2010 LAWS AFFECTING CITIES AND TOWNS

- PUBLIC LAW 2 – SENATE ENROLLED ACT 31 – EFFECTIVE JULY 1, 2010 – MOTORCYCLE HANDLEBARS – Amends IC 9-19-7-2 – Prohibits motorcycle handlebars from rising higher than the shoulders of the driver when the driver is seated in the driver’s seat.
- PUBLIC LAW 13 – SENATE ENROLLED ACT 87 – EFFECTIVE JULY 1, 2010 EMS PERSONNEL – ACTIONS AGAINST CERTIFIED EMPLOYEES – Adds IC 36-8-3-4.3, IC 36-8-3.5-19.3 and IC 36-8-12-19 – Amends IC 36-8-3-5 and IC 36-8-3.5-1 – Requires a medical director of a police or fire department or a volunteer fire department to provide a written explanation to certified employees if the medical director refuses or fails to supervise or attest to the competency of the individual or suspends the individual. Requires a hearing on such matters.

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- PUBLIC LAW 14 – SENATE ENROLLED ACT 93 – EFFECTIVE JULY 1, 2010 UTILITY SERVICE, ROAD, OR STREET VEHICLES – Amends IC 9-21-8-35 – Requires drivers, when approaching a stationary utility service vehicle, or a stationary road, street or highway maintenance vehicle, to proceed with caution and reduce their speed to a speed of at least 10 miles per hour less than the posted speed limits.
- PUBLIC LAW 19 – SENATE ENROLLED ACT 128 – EFFECTIVE JULY 1, 2010 STATEWIDE MUTUAL AID PROGRAM – Amends IC 10-14-3-10.6 and IC 10-14-3-10.7 – Allows fire protection districts and fire protection territories to participate in the statewide mutual aid program. Requires participants in the program that receive disaster assistance from another participating unit to reimburse the assisting unit for certain expenses to the extent the expenses are not covered by reimbursements.

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- PUBLIC LAW 23 – SENATE ENROLLED ACT 172 – EFFECTIVE JULY 1, 2009 RETROACTIVE – 1977 POLICE AND FIRE PENSION PLAN – Adds IC 36-8-8-24 – Amends IC 36-8-8-13.8, IC 36-8-8-13.9, and IC 36-8-8-14.1 – Permits a member of the 1977 Plan to designate one or more beneficiaries to receive the member’s contributions plus interest if the member dies without receiving benefits and is without a spouse, child or parent, who is entitled to receive the benefits. (See Public Law 62 for similar provisions)
- PUBLIC LAW 28 – SENATE ENROLLED ACT 221 – EFFECTIVE JULY 1, 2010 HABITUAL TRAFFIC VIOLATORS – Amends IC 9-24-15 and IC 9-30-10 – Requires a court to impose reasonable monitoring requirements on a person who is issued a restricted driving permit if the person is a habitual traffic violator. Requires courts to impose certain conditions on habitual traffic violators. States that it is a Class A misdemeanor if a person operates a vehicle or motorized bicycle in violation of a restricted license.

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- PUBLIC LAW 33- SENATE ENROLLED ACT 271 – EFFECTIVE JULY 1, 2010
PUBLIC SAFETY DIRECTOR – THIRD CLASS CITIES – Amends IC 36-4-9-8 and IC 36-8-3-3 – Allows the mayor to appoint a public safety director to serve as the chief administrative officer of and oversee the operations of the police and fire departments. Requires the mayor to determine the qualifications of the public safety director.
- PUBLIC LAW 34 – SENATE ENROLLED ACT 281 – EFFECTIVE JULY 1, 2010
BODY ARMOR – Adds IC 36-5-7-7 and IC 36-8-9-9 – Amends IC 36-8-4-4.5, IC 36-9-16-2, and IC 36-9-16-3 – Requires towns to provide active members of their police departments with body armor for the torso after December 31, 2010. Towns shall replace the body armor according to the replacement period recommended by the manufacturer of the body armor for the torso. "Body Armor" has the meaning set forth in IC 35-47-5-13(a).

Allows money in the Cumulative Capital Improvement Fund to be used to purchase body armor.

TAIL LAMP REQUIREMENTS – Amends IC 9-19-6-4 and IC 9-21-7-2 – Requires motor vehicles, trailers, semitrailers and pole trailers manufactured or assembled after January 1, 1956 to be equipped with at least two (2) tail lights.

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- PUBLIC LAW 41 – SENATE ENROLLED ACT 401 – EFFECTIVE JULY 1, 2010
PETITION AND REMONSTRANCE PROCESS – Amends IC 6-1.1-20-1.9, IC 6-1.1-20-3.1, IC 6-1.1-20-3.2, and IC 6-1.1-20-3.5 – Allows a person who owns a mobile home or manufactured home assessed as personal property, used as a principal place of residence, and is receiving a standard property tax deduction, to participate in the petition and remonstrance process.
- 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's 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.

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- 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 violations 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.

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- 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 65 – HOUSE ENROLLED ACT 1084 – EFFECTIVE JULY 1, 2009
METAL COIL CARRIERS – Adds IC 9-21-8-58 – Amends IC 9-24-6-2 – Requires the operator of a commercial motor vehicle transporting metal coils 5,000 pounds or over to be certified in proper load securement as provided in 49 CFR 393.120. Makes it a Class A misdemeanor to violate such provision.
- PUBLIC LAW 67 – HOUSE ENROLLED ACT 1116 – EFFECTIVE JULY 1, 2010
WORKER'S COMPENSATION – Amends IC 22-3-3-4 – States that an employer or employer's health insurance carrier may not delay the provisions of emergency medical care whenever emergency care is necessary in the professional judgment of the attending health care facility physician.

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- PUBLIC LAW 70 – HOUSE ENROLLED ACT 1127 – EFFECTIVE JULY 1, 2010
1977 POLICE AND FIRE PENSION FUND – Adds IC 36-8-8-5.5 – Permits members of the fund to purchase prior service at full actuarial cost.
- PUBLIC LAW 71 – HOUSE ENROLLED ACT 1154 – EFFECTIVE JANUARY 1, 2011
TRAFFIC VIOLATIONS – MARION COUNTY – Amends IC 34-28-5-4 and IC 34-28-5-5 States that in addition to any judgment otherwise entered in Marion County for a traffic violation constituting an infraction, an additional judgment amount of not more than thirty-five dollars (\$35) may be entered for the traffic violation. A judgment amount imposed shall not be included in applying the maximum judgment amount. Provides that the funds collected for infraction judgments imposed in Marion County for traffic violations shall be transferred to a dedicated county fund. The money in the dedicated county fund does not revert to the county general fund or state general fund and may be used, after appropriation by the county fiscal body, only for the following purposes: (1) To pay compensation of commissioners appointed under IC 33-33-49. (2) To pay costs of the county's guardian ad litem program.

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- 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 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 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.

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- 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.

PROVISIONAL TAX STATEMENTS – Amends several sections of IC 6-1.1-22.5 Provides that provisional tax bills are required if the county auditor fails to deliver an abstract to the county treasurer before April 1.
- PUBLIC LAW 90 – HOUSE ENROLLED ACT 1065 – EFFECTIVE JULY 1, 2010
FIREARMS IN LOCKED VEHICLES – Adds IC 34-28-7 – Prohibits political subdivisions from prohibiting or restricting an employee from the possessing of a firearm or ammunition that is locked in the truck of the employee's vehicle or kept in the glove compartment of the employee's locked vehicle.

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- PUBLIC LAW 98 – HOUSE ENROLLED ACT 1324 – EFFECTIVE JULY 1, 2010
VACANT LOTS – TAX SALE PROPERTY – Adds IC 6-1.1-24-6.8 – Amends IC 6-1.1-10-38 and IC 6-1.1-25-4 – Permits a county to sell vacant parcels acquired by a county in a tax sale to an owner of a contiguous parcel subject to the standard property tax deduction.
- PUBLIC LAW 99 – SENATE ENROLLED ACT 30 – EFFECTIVE VARIOUS DATES
PERF – ANNUITY SAVINGS ACCOUNTS – Amends IC 5-10.2-3-6.5 – Allows certain members of PERF who have separated from employment and are not employed in a covered position for 30 days to withdraw their annuity savings accounts.

1977 POLICE AND FIREFIGHTERS' FUND – Adds IC 36-8-8-24.8 – Provides that, before July 1, 2012, an active member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) who is eligible to receive an unreduced retirement benefit may elect to receive at retirement a partial lump sum distribution equal to the member's monthly benefit times the member's years of creditable service in exchange for an actuarially reduced monthly benefit. States that such election does not apply to a fund member who has elected to enter the DROP program.

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- PUBLIC LAW 100 – SENATE ENROLLED ACT 81 – EFFECTIVE JULY 1, 2010
DRIVER'S LICENSES – Adds IC 2-5.5-5 – Amends IC 9-24-15-4, IC 9-24-18-1, IC 9-30-4-6, IC 9-30-4-6.5 and IC 35-44-3-3 – States that the driver's license of a person convicted of resisting law enforcement while using a vehicle and : (1) exceeding the speed limit by at least 20 miles per hour; (2) committing criminal recklessness; or (3) engaging in reckless driving with a vehicle; may be suspended for one year for a first offense and two years for a second or subsequent offense. Provides that if a person receives a sentence that includes: (1) a term of incarceration; and (2) a driver's license suspension; the driver's license suspension begins on the date th person is released from incarceration and not on the date the person is convicted. Specifies in which court a petition for a hardship license must be filed. Requires the court to notify the bureau of motor vehicles of the person's conviction, and specifies that the convicted person has 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.

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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.

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• 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 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

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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.

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

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- 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.

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- 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 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.

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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.

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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 1/3 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.

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: any meeting to consider an ordinance or resolution making a preliminary determination to issue bonds or enter into a capital lease for a controlled project; a preliminary determination to enter issue bonds or enter into a capital lease for a controlled project; 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)

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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.

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.

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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

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other institutions, wherever located, a 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. 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

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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.

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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.

Returned Checks

An extended effort shall be made by the clerk-treasurer or controller to recover funds from checks returned by depositories as uncollectible. During the process of collecting, the returned checks shall be carried as a cash items on the monthly reconciliation.

The clerk-treasurer or controller should immediately notify the maker or drawer of the returned check. We recommend you develop a form letter detailing the procedures and consequences of not making the returned check good. Contact by telephone is usually more expedient; however, you should probably follow up your verbal conversation with the form letter. If the drawer comes in to pay make sure you only accept cash, certified check, or money order.

Concerning whether or not it would be proper for a city or town to enact an ordinance establishing a returned check charge, IC 35-43-5-5 (e) states that it is a defense under subsection (a) if a person who: (1) Has an account with a credit institution but does not have sufficient funds in the accounts; and (2) Issues or delivers a check, a draft, or an order for payment on that credit institution; Pays the payee or holder the amount due, together with protest fees and any service fee or charge, which may not exceed the greater of twenty-seven dollars and fifty cents (\$27.50) or five percent (5%) [but not more than two hundred fifty dollars (\$250)] of the amount due, within ten (10) days after mailing notice to the person that the check has not been paid.

Returned Checks

Based upon the foregoing, it is our audit position that a city or town could enact a bad check service charge by local home rule ordinance if the amount of the charge did not exceed the amount listed in IC 35-43-5-5. We recommend the City or Town Attorney review IC 26-2-7-3 and include language in such ordinance for pursuing returned checks not paid within ten (10) days.

Furthermore, IC 36-1-8-13 requires cities and towns to refer all dishonored checks for which they are not able to obtain payment to the prosecuting attorney for the county where the dishonored check was initially received not later than 90 ninety days after receipt of the check.

When it is determined that the returned item is uncollectible, the clerk-treasurer or controller shall attach all related documents to an accounts payable voucher to be presented to the appropriate board (Board of Works, or Council) with an explanation. Upon board approval of payment from the general fund, without appropriation, the city or town warrant is to be placed in the cash drawer to replace the uncollectible item and deposited as other checks. If the returned item was for payment of a utility bill, a utility warrant would be issued to the utility clerk from the utility operating fund and placed in the cash drawer to replace the uncollectible item and deposited as other checks. Such amount would be recharged to the customer's account.

Local Law Enforcement Continuing Education Fund – Sources of Revenue

- Vehicle Accident Report Fees – IC 9-29-11-1
- Local Law Enforcement Continuing Education Fees – IC 33-37-5-8
- VIN Check Fees – IC 9-17-2-12 & IC 9-29-4-2
- Handgun License Fees – IC 35-47-2-3

HANDLING LAW ENFORCEMENT CONTINUING EDUCATION PROGRAM FEES

- Each Court is to assess a \$4 law enforcement continuing education program fee in each action in which a defendant is found to have (1) committed a crime; (2) violated a statute defining an infraction; or (3) violated an ordinance of a municipal corporation. [IC 33-37-5-8(c)]
- Monthly, a county, city or town court clerk is to transmit the law enforcement continuing education fees collected to the county, city or town fiscal officer. [IC 33-37-4-1, IC 33-37-4-2, IC 33-37-4-3]
- The fiscal officer shall deposit the fees into either the County User Fee Fund or the City or Town User Fee Fund. [IC 33-37-4-1, IC 33-37-4-2, IC 33-37-4-3]
- A law enforcement agency may receive funds from a County User Fee Fund or a City or Town User Fee Fund by filing a claim with the county, city or town fiscal officer. The claim shall include a "verified statement" of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency. Payment of the claimed amount from a County User Fee Fund or a City or Town User Fee Fund may be made without appropriation.

HANDLING LAW ENFORCEMENT CONTINUING EDUCATION PROGRAM FEES

- Claims may be filed as often as monthly, quarterly, or semiannually.
- On receipt of the amount claimed by the law enforcement agency, the city or town fiscal officer shall place the amount received into the Local Law Enforcement Continuing Education Fund. [IC 5-2-8-2]
- Funds received by a law enforcement agency shall be used for the continuing education and training of law enforcement officers employed by the agency and for equipment and supplies for law enforcement purposes. [IC 5-2-8-6]
- Amounts claimed for expenditures from the Local Law Enforcement Continuing Education Fund must have been appropriated prior to expenditure either through the normal budget process or by additional appropriation. [IC 33-37-8-4]
- Any funds remaining in the Local Law Enforcement Continuing Education Fund at year end do not revert.

MUNICIPAL ELECTION EXPENSES – ALL CITIES AND TOWNS 3,500 AND OVER

The expense of city and large town primaries and elections are paid by the county with each city and large town conducting a primary or election being billed for its share of the expenses. Each city or large town should budget as one item, the local amount of such expenses under "Other Services and Charges" in the budget for the election year for the total estimated amount to be paid to the county. The county auditor or clerk of the circuit court can supply information as to the amount to be included for primary and election expenses. IC 3-5-3-8 and IC 3-5-3-9 provide the procedure for the county to allocate primary and election costs to all cities and those towns with populations of 3,500 and over.

MUNICIPAL ELECTION EXPENSES – TOWNS UNDER 3,500

The expenses of a town primary and election in a town with less than 3,500 population are to be paid directly by the town, unless the town has passed an ordinance to have the county conduct its primary election under IC 3-8-5-2 or regular election under IC 3-10-7-4. It is recommended that the total amount of such expenses be budgeted as one item under "Other Services and Charges" in the General Fund (IC 3-10-7-16 and IC 3-10-7-17).

The following are some Indiana Code sections of interest for towns under 3,500 populations:

- IC 3-8-5 - Nomination of Candidates by Convention
- IC 3-8-6 - Nomination by Petition
- IC 3-10-7-7 - Town Election Boards, Establishment, Members
- IC 3-10-7-4 - Conduct of Elections
- IC 3-10-7-16 - Employees
- IC 3-10-7-17 - Purchase of Materials, Supplies, Equipment
- IC 3-10-7-20 - Compensation of Members
- IC 3-10-7-21 - Powers and Duties

The Town Attorney and the State Election Board should be consulted for guidance on any questions related to town elections.

MUNICIPAL ELECTION EXPENSES – TOWNS UNDER 500

IC 3-10-7-5.5 provides that the county election board shall conduct the municipal election unless the town council establishes a town election board to conduct the election.

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. 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).
