

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

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SPECIAL EDITION

NEW LAWS AFFECTING VARIOUS COUNTY OFFICES

The following is a digest of some of the laws passed by the 2002 Second Regular Session of the General Assembly affecting various offices in county government. Some of the laws do not pertain directly to a particular county office, but are included in this digest for ready reference to the covered subject matter.

The digest is not intended as an expression of legal interpretations, nor is the digest intended to be all inclusive. Reference in the digest will be to the Indiana Code in the following form (Amends IC 33-17-10-5) which means (Amends Indiana Code, Title 33, Article 17, Chapter 10, Section 5). Please note the effective date of each law.

PUBLIC LAW 7 - SENATE ENROLLED ACT 43 - EFFECTIVE July 1, 2002 -County Funding of Sewage Disposal Systems

Adds new section IC 36-9-40. Allows private sewage disposal systems to be created. Property owners will be assessed the cost of the construction of the system. The county auditor shall mail a notice to each affected person. The assessment is due not later than 30 days after approval of the board or may choose to pay in 20 equal semiannual installments if they enter into a written agreement. Agreement is to be filed with the county auditor. Interest is at 10%. Assessment of less than \$100 may not pay in installments. The county auditor shall receive the payment of assessment installments and keep all accounts and give proper vouchers for payments. Proceeds are to be kept in a separate fund. Collection of delinquent assessments shall proceed in the manner delinquent taxes are collected.

PUBLIC LAW 13 - SENATE ENROLLED ACT 149 - EFFECTIVE July 1, 2002 -Certificate of Birth Resulting in Stillbirth

Adds new section IC 16-37-1-8.5. Upon request by a parent of a stillborn child, a local health officer shall provide to the parent a certificate of birth resulting in stillbirth. A local health department may charge the same fee for a stillbirth certificate as charged for a certificate of birth registration.

PUBLIC LAW 31 - SENATE ENROLLED ACT 443 - EFFECTIVE July 1, 2002**-Electronic Transmission of Information on Purchasing and Selling of Surplus Property**

Amends IC 5-22-3-4 to allow a governmental body to receive electronic offers if the solicitation indicates the procedure for transmitting the electronic offer to the governmental body and the governmental body receives the offer on a fax machine, by E-mail, by means of another electronic system that has a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means. Amends IC 5-22-7-5 and IC 5-22-9-3 to allow a purchasing agent to provide electronic access to a notice through the electronic gateway administered by the Intelenet Commission. Adds new section IC 5-22-22-4.5 to allow the purchasing agency to sell surplus property using an Internet auction site that satisfies both of the following: (1) The site is approved by the Intelenet Commission and (2) the site is linked to the electronic gateway administered by the Intelenet Commission. The posting of the sale on the Internet auction site must include a detailed description of the surplus property to be sold and may pay the costs of conducting the auction on the Internet site as required by the person maintaining the auction site.

PUBLIC LAW 39 - HOUSE ENROLLED ACT 1077 - EFFECTIVE Upon Passage**-Child Support**

Amends IC 31-16-12-1 and IC 31-16-12-3 to allow the court, upon request of a person or an agency entitled to receive child support payments, to issue an order regarding components of arrearage. Amends IC 33-19-7-1 to require the clerk to monthly distribute to the county auditor 100% of the support and maintenance fees for cases designated as non-Title IV-D cases and the percentage share of the support and maintenance fees for cases designated as IV-D cases that is reimbursable to the county at the federal financial participation rate. The clerk shall monthly distribute to the office of FSSA the percentage share of the support and maintenance fees for Title IV-D cases that is not reimbursable to the county at the applicable federal financial participation rate.

PUBLIC LAW 50 - HOUSE ENROLLED ACT 1240 - EFFECTIVE July 1, 2002**-Municipal Ordinances**

Amends IC 36-1-6-2. A municipal corporation may enter onto property and take appropriate action to bring the property in compliance with the ordinance. If the violation is located outdoors and it does not involve a building or structure, the municipal corporation may issue a bill to the owner for the costs incurred by the municipal corporation in bringing the property into compliance with the ordinance, including administrative costs and removal costs. If the owner of the real property fails to pay a bill issued, the municipal corporation may certify to the county auditor the amount of the bill, plus any additional administrative costs. The Auditor shall place the total amount certified on the tax duplicate, and the total amount, including any accrued interest, shall be collected as delinquent taxes are collected and shall be disbursed to the general fund of the municipal corporation.

PUBLIC LAW 52 - SENATE ENROLLED ACT 190 - EFFECTIVE July 1, 2002**-Hunting, Trapping, and Fishing Licenses**

Amends IC 14-22-7-3. DNR may furnish the migratory waterfowl stamps to each clerk of the circuit court and the clerk's designated depositories for issuance or sale in the same manner as hunting licenses are issued or sold. Amends IC 14-22-11-3. The clerk of the circuit court in each county may issue hunting, trapping, and fishing licenses. No longer requires clerks to sell these licenses.

PUBLIC LAW 57 - SENATE ENROLLED ACT 466 - EFFECTIVE July 1, 2002
-Shooting Ranges

Repeals IC 14-22-31.5-4.

PUBLIC LAW 65 - SENATE ENROLLED ACT 136 - EFFECTIVE Upon Passage
-Telephone Calling Systems for Confined Offenders

Adds a new section IC 5-22-23. The purchasing agent of a community corrections advisory board, a juvenile detention center, a juvenile detention facility, and a county jail with a population of greater than 75,000 may solicit for a telephone calling system for confined offenders. A solicitation must include any security and fraud control services considered necessary by the purchasing agency, including the use of collect calling services as the sole means of confined offender communications with the general population and may not solicit a per call service charge, a per minute rate, or a commission rate that exceeds the terms of a contract between the state and a telecommunications provider for the same service under the most recent solicitation submitted by the Department of Administration. This act does not apply to systems made prior to effective date of this act.

PUBLIC LAW 79 - SENATE ENROLLED ACT 518 - EFFECTIVE July 1, 2002
-Mental Health Centers

Amends IC 12-29-2-3 to modify the formula that determines the county's maximum appropriation for part of the total operating budget for a single center. Amends IC 12-29-2-4 to modify the formula that determines the county's maximum appropriation for part of the total operating budget for multiple centers. Adds IC 12-29-2-15 to require a community mental health center governing board to include a member of the county fiscal body. Adds IC 12-29-2-16 to require a community mental health center to provide an annual report to the fiscal body of each county from which the center receives funding.

PUBLIC LAW 151 - HOUSE ENROLLED ACT 1088 - EFFECTIVE Upon Passage
-Reassessment Procedures

Amends IC 6-1.1-4-32. Once taxpayer receives notice of reassessment, in order to obtain a review by the Indiana board, the taxpayer must file a petition for review with the county assessor, within 45 days after the notice. The cost of the reassessment contract shall be paid without appropriation from the county property reassessment fund. A contractor is entitled to payment if the contractor submits a fully itemized, certified bill to department of local finance, obtains from department of local finance the approval of the form and bill and a certification that the billed goods and services have been received, and files with the county auditor a duplicate copy of the bill, the proof of approval and the certification. The auditor shall immediately certify the bill is true and correct without further audit, publish the claim, and submit the claim to the county executive. The same above rules apply if department of local finance if a special assessment is contracted for. A contractor may notify the department of local finance if the county auditor fails to certify the bill, publish the claim, submit the claim to the county executive, or issue a check at the first opportunity the auditor is legally permitted to do so, or the county executive fails to allow the claim at the first opportunity the county executive is legally permitted to do so, or a person or entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts the process for payment of a bill. If the department of local finance determines bill should have been paid, the treasurer of state shall pay the contractor and withhold from the county certain distributions the amount paid by the state.

**PUBLIC LAW 156 - HOUSE ENROLLED ACT 1378 - EFFECTIVE July 1, 2002
-Emergency Telephone System Fees**

Amends IC 36-8-16-14. Allows the E911 fund to pay for the lease, purchase, construction, or maintenance of voice and data communications equipment, communications infrastructure, or other information technology necessary to provide emergency response services under authority of the unit imposing the fee.

**PUBLIC LAW 161 & 172 - SENATE ENROLLED ACT 99 AND SENATE ENROLLED ACT 461
-EFFECTIVE July 1, 2002 – County Onsite Waste Management District**

Adds New section IC 36-11 establishing a county onsite waste management district. The county auditor may receive an objecting petition opposing the establishment. Auditor shall immediately certify a copy of the petition to the county commissioners. The district may establish rates and charges for each parcel, lot, or building that is served by the district. A lien attaches on the date the rates and charges become 60 days delinquent. The district may recover delinquencies in a civil action. A rate or charge is not enforceable as a lien against a subsequent owner unless the lien was recorded with the county recorder before the conveyance to the subsequent owner. The district shall release the liens filed with the county recorder after the recorded date of conveyance and the delinquent fees incurred by the seller upon receipt of a verified demand in writing from the purchaser.

**PUBLIC LAW 164 - SENATE ENROLLED ACT 248 - EFFECTIVE July 1, 2002
-Small Claim Filing Fee**

Amends IC 33-19-5-5. Added language to exempt small claim filings by or on behalf of the attorney general from the \$35 small claims costs fee. Also, eliminated the judicial salaries fee as additional fees collected on small claim filings.

**PUBLIC LAW 168 - SENATE ENROLLED ACT 343 - EFFECTIVE July 1, 2002
-Drug Courts**

Adds new section IC 12-23-14.5. A court of the county may establish a drug court under the court's operation. The costs of a drug court may, at the discretion of the fiscal body of the county, be supplemented out of the county general fund and may be further supplemented by payment from the user fee fund. The court shall fix the compensation of employees of the drug court. A drug court may require an eligible individual to pay a fee for drug court services. This fee may not exceed \$500. The clerk shall collect the fee and transmit to the county auditor for deposit in the county user fee fund. Adds new section IC 33-19-6-22, adding this fee to the fees collected by the clerk. Amends IC 33-19-8-5, adding this fee to the list of fees deposited in the user fee fund.

**PUBLIC LAW 171 - SENATE ENROLLED ACT 402 - EFFECTIVE July 1, 2002
-Recording of Instruments and Sewage Liens**

Amends IC 36-2-11-6. If a person submits an amount that exceeds the fee set forth IC 36-2-7-10 and the instrument submitted meets the statutory requirements for filing, the recorder shall accept and record the instrument. If the amount submitted is at least \$3 more than the fee required, the amount that exceeds \$3 shall be refunded upon the person filing the document. The recorder may retain as an administrative fee up to \$3 of the excess amount submitted. Amends IC 36-9-23-33. Delinquent sewage liens may be a list or an individual instrument.

**PUBLIC LAW 176 - HOUSE ENROLLED ACT 1138 - Various Effective Dates
-Storm Water Systems, Hunting Licenses**

Amends IC 8-1.5-5-7. The collection of the storm water systems user fees may be effectuated through a periodic billing system or through a charge appearing on the semiannual property tax statement. Amends IC 14-22-7-3 allowing the clerk to issue migratory waterfowl stamps. Amends IC 14-22-11-3 allowing the clerk to issue hunting, trapping, and fishing licenses.

**PUBLIC LAW 177 - HOUSE ENROLLED ACT 1195 - EFFECTIVE January 1, 2003
-Deductions for Mobile Homes and Manufactured Homes**

Amends IC 6-1.1-12-2, IC 6-1.1-12-12, IC 6-11-12-15, IC 6-1.1-12-17, IC 6-1.1-12-17.5, and IC 6-1.1-20.9-3. With respect to real property, the statement must be filed during the 12 months before May 11 of each year the person wishes to obtain the deduction. With respect to a mobile home that is not assessed as real property, or a manufactured home that is not assessed as real property, the statement must be filed during the 12 months before March 2 of each year the person wishes to obtain the deduction. Amends IC 6-1.1-35.2-2. For training new assessing officials or county assessors between the date a person is elected to office and January 1 of the year the person takes office for the first time, the Department of Local Government Finance may approve the per diem per session and the county in which the person resides may approve a mileage allowance.

PUBLIC LAW 178 – HOUSE ENROLLED ACT 1196 – Various Effective Dates – Various Issues

Amends IC 6-1.1-5.5-4. Effective July 1, 2002. Increases the penalty for omitting or putting false information on the sales disclosure form from a Class A infraction to a Class A misdemeanor.

New Section IC 6-1.1-5.5-12. Effective July 1, 2002. Allows the assessor to fine a person \$100 or .025% of the sales price of the property being transferred if they omit or falsify information on the sales disclosure fund. The auditor collects the fine and it is deposited in the sales disclosure fund. The assessor sends the notice of the fine.

Amends IC 6-1.1-11-3. Effective July 1, 2002 and deletes UPON PASSAGE IC 6-1.1-12.1-4.5. Exemption applications are to be filed in the county assessor's office. Currently, they are filed in the auditor's office. There is no longer a \$2 filing fee.

Amends IC 6-1.1-17-3. Effective July 1, 2002. Township trustee no longer need to advertise their poor relief rate.

Amends IC 6-1.1-17-5. Effective Upon Passage. If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

Amends IC 6-1.1-18-9. Effective July 1, 2002. Removes a provision allowing the council to pay for personal property audits from the "proceeds" realized by conducting the audits. However, the deletion of this section does not prevent counties from having a contract to do this because of home rule.

Amends IC 6-1.1-18.5-13.6. Effective Upon Passage. Allows a county to seek an excess levy for voting equipment.

PUBLIC LAW 178 – HOUSE ENROLLED ACT 1196 – Various Effective Dates – Various Issues (Continued)

Amends IC 6-1.1-28-1. Effective Upon Passage. If the county assessor is certified level II assessor, then the commissioners are not required to appoint a person who has a level II certification. A majority of the PTABOA constitutes a quorum if one of the board members in attendance has a level II certification.

Amends IC 6-1.1-35-9. Effective July 1, 2002. Requires that confidential tax information be given to a contractor hired by the commissioners to audit personal property returns.

Amends IC 6-1.1-35-11. Effective July 1, 2002. Establishes penalties if a contractor releases confidential information.

Amends IC 6-1.1-36-12. Effective July 1, 2002. Clarifies that commissioners can hire outside contractors to conduct personal property audits for undervalued and omitted property. Payment can not be based on a percentage of property discovered or until the final determination of the audit has been completed. You can defer payment and pay the contractor from the pool of money generated by the audits and you can structure the contract so the contractor is allowed to “walk away” without payment if sufficient funds are not generated to pay cover the flat fee.

Amends IC 6-3.5-1.1-21 and Amends 6-3.5-6-17.2. Effective July 1, 2002. Requires the Department of Revenue to submit a report to each county auditor regarding their CAGIT/COIT balance. Currently the report is to be sent to the county treasurer by February 1.

New Section IC 6-3.5-1.1-21.1 and IC 6-3.5-6-17.3. Distributions of “excess” CAGIT/COIT will be made in January as a supplement and allocated in the same manner as certified distributions.

New Section IC 12-15-8.5. Effective January 1, 2003. Establishes Medicaid lien procedure and requires the assessor or auditor to provide FSSA with legal description of property upon request.

Amends IC 36-2-5-3. Effective January 1, 2002 (retroactive). The \$1,000 or \$500 increase for being a level II is not considered part of the “ annual salary”.

Amends IC 36-2-5-13. Effective Upon Passage. Allows the county council to amend a county officers’ salary with a simple majority vote. Current law requires a two-thirds majority vote.

New Section IC 36-2-9-20. Effective Upon Passage.

The county auditor shall:

- (1) maintain an electronic data file of the information contained on the tax duplicate for all:
 - (A) parcels; and
 - (B) personal property returns; for each township in the county as of each assessment date;
- (2) maintain the file in the form required by:
 - (A) the legislative services agency; and
 - (B) the department of local government finance; and
- (3) transmit the data in the file with respect to the assessment date of each year before October 1 of the year to:
 - (A) the legislative services agency; and
 - (B) the department of local government finance.

**PUBLIC LAW 186 - HOUSE ENROLLED ACT 1360 - EFFECTIVE Upon Passage
-Build Indiana Fund**

Amends and adds section to IC 4-13-17 regarding the appropriating and approving of Build Indiana Funds for recipients.

PUBLIC LAW 187 - SENATE ENROLLED JOINT RESOLUTION 12

Amends Article 6, Section 2 of the Indiana Constitution. The General Assembly may provide by law for uniform dates for beginning the terms of county officials. If the General Assembly enacts a law to provide a uniform date for beginning the terms of a county official, the General Assembly may provide that the term of each county official initially elected after enactment of the law to provide the uniform date for beginning the terms of the county official is for less than four years in order to establish a uniform schedule of dates for the beginning of terms for the office. However, after the initial election for each office, the term for that office shall be for four years. This is the first passage of this resolution and must be approved by a second General Assembly.