

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 387

April 2013

REMINDER OF ORDER OF BUSINESS

April

- 15 Members of Tax Adjustment Board to be appointed before this date in counties that have not abolished such board. (IC 6-1.1-29-2)

Last day to make pension report and payment for first quarter by counties participating in Public Employees' Retirement Fund.

- 20 Last day to report and make payment of balance of State and County Income Tax withheld in March to Indiana Department of Revenue.

Last day to file quarterly unemployment compensation reports with the Department of Workforce Development.

- 24, 25 & 26 State Board of Accounts called meeting for County Recorders - Indianapolis

- 30 Last day to file quarterly report of federal withholding tax with Director of Internal Revenue Service.

May

- 1 Prepare report of school funds to Auditor of State and make payment of principal and interest due to Treasurer of State on the Common and Permanent Endowment Funds, and pay the Treasurer of State all fines and forfeitures on hand April 30, 2012, as shown in this report. (IC 20-42-1-6)

- 10 First installment of property taxes due. (IC 6-1.1-22-9)

- 15 On or before May 15 is the last regular day for filing applications for tax exemption by Churches, Educational and Charitable organizations. (IC 6-1.1-11-3)

Period for normal filing of personal property schedules ends. (IC 6-1.1-1-7)

Before May 16, of each even numbered year, the County Auditor shall provide to the County Assessor a list by taxing district of property for which a tax exemption was in effect for the preceding year. (IC 6-1.1-11-5)

- 15, 16 & 17 State Board of Accounts called meeting for County Auditors – Indianapolis

- 20 Last day to report and make payment of State and County Income Tax withheld in April to Indiana Department of Revenue.

- 27 Memorial Day – Legal Holiday (IC 1-1-9-1)

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REMINDER OF ORDER OF BUSINESS

(Continued)

June

- 1 Last date for filing County Highway Annual Operational Report with the State Board of Accounts and other governmental agencies. (IC 8-17-4.1-7)

On or before June 1 the County Auditor will certify the name and addresses of persons who have money due them from the County to the County Treasurer for determining if such persons owe delinquent property taxes. (IC 6-1.1-22-14)

On or before June 1 the County Treasurer will provide to the Auditor of State, Indiana Department of Transportation, and any state institution or state school a list of persons who owe delinquent property taxes and are believed to have money due to them from that agency. (IC 6-1.1-22-16)

- 4, 5 & 6 State Board of Accounts called meeting for Clerk of the Circuit Courts – Indianapolis

- 15 Before June 16 of each even numbered year the County Assessor is to give notice to tax exempt organizations which failed to file an application for exemption of property tax for which an exemption was effective for the previous year, if application must be filed for the exemption under IC 6-1.1-11-3.5. (IC 6-1.1-11-5)

- 20 Last day to report and make payment of State and County Income tax withheld in May to Indiana Department of Revenue.

On or before this date complete settlement and distribution of taxes collected by the County Treasurer since the last settlement. Prepare settlement sheet to be submitted to Auditor of State for approval and make distribution of funds due local governmental units and the Treasurer of State by June 30. (IC 6-1.1-27-1 & IC 6-1.1-27-3)

- 29 State Board of Accounts called meeting for County Council - Plainfield

- 30 Last day for County Treasurer to certify list of real property eligible for tax sale to County Auditor if May 10 first payment due date.

On or after January 1 of each calendar year in which a tax sale will be held in a county and not later than 51 days after the first tax payment due date in that calendar year, the County Treasurer is to certify the list of real property eligible for tax sale to the county auditor. (IC 6-1.1-24-1)

SHERIFF'S INMATE TRUST AND PETTY CASH

Indiana Code 36-8-10-22 requires that the sheriff hold in trust separately for each inmate any money received from that inmate or on the behalf of the inmate. Upon discharge or release the sheriff is to pay to the inmate or legal guardian any balance remaining in the inmate's trust fund. Often the balance is very small, ranging from a few cents to a few dollars. The warrants given to the inmates for the balances often go uncashed. We have been asked if a policy may be set whereby under a certain dollar limit the inmate does not receive this remaining balance. There is no statutory authority to do so.

We have also been asked if the payment may be in the form of cash instead of warrant for the distribution of the balance under a certain dollar limit. This may be done through the petty cash fund process. This would require authorization of the petty cash fund from the county council, a policy addressing the maximum dollar amount the balance may be to be paid using petty cash, and a voucher that provides at a minimum the date, dollar amount, identification of the inmate, and inmate's signature.

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SHERIFF'S INMATE TRUST AND PETTY CASH (Continued)

It should be remembered that the vouchers are a reconciling item and that the cash and any vouchers should always equal the total petty cash fund. To properly account for the petty cash fund when part of the inmate trust fund, a separate ledger card identified as the petty cash fund should be maintained as is maintained for each of the inmates' trust funds. This way the total individual ledgers will be equivalent to the control ledger.

FACSIMILE TRANSMISSION FEES

We have been asked several times about facsimile machine transmission fees.

Currently, IC 5-14-3-8 (d) authorizes the fiscal body to establish a fee schedule for the certification or copying of documents. Prior to July 1, 2007 this subsection allowed for the inclusion of a facsimile machine transmission fee. Effective July 1, 2007 the reference to the inclusion of a fee for facsimile machine transmissions was deleted from this subsection and so it is our position that this subsection no longer supports such a fee.

IC 5-14-3-8(f) states in part: "Notwithstanding subsection...(d)..... a public agency shall collect.... facsimile machine transmission fee... that is specified by statute or is ordered by a court."

We are not aware of any statute that specifies a facsimile machine transmission fee.

Per State Court Administration, Trial Rule 81(A) does not allow for a standing court order for facsimile fees.

As to the amount of a facsimile machine transmission fee which a court may order on an individual basis, State Court Administration recommends that it should adopt a fee amount that is reasonable and substantially in conformance with those authorized by existing statutes. The parameters specified in IC 5-14-3-8(d) could be used as a guide. A court may decide that a reasonable facsimile fee may be so small as to not be worth collecting.

In an audit, if a facsimile machine transmission fee is collected we would look for either a specific statute authorizing the fee or a court order.

INSPECTION OF COUNTY RECORDS

Most records of public offices are public property and may be examined by any citizen of the county, unless the law specifically provides they be confidential. Any person may inspect and copy the public records of any public agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by Statute.

A public agency may not deny or interfere with a person's right to inspect or copy public records. The public agency shall either provide the requested copies to the person requesting such copies or allow the person to make copies on the agency's equipment or on his own equipment. (IC 5-14-3-3) The public agency may charge a fee for such copies. If the public record is a duplicate of a computer tape or disc, microfilm, or other similar record, the fee to be charged should be set in accordance with IC 5-14-3-8.

IC 5-14-3-4 contains a listing of those records which are (or could) be held to be confidential. All county officials are urged to review this section of the law to ensure that the county's policy on such records is in compliance with the Statute.

Questions regarding access to public records should be directed to the States' Public Access Counselor at (800) 228-6013.

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MEETING ON LEGAL HOLIDAYS

Per IC 1-1-9-1(c) action taken by a political subdivision on a legal holiday shall be valid for all purposes.

LEGAL ADVERTISING FOR RECEIVING BIDS

Whenever bids are to be received, a legal notice shall be published two (2) times, at least one (1) week apart, with the second publication made at least seven (7) days before the date the bids will be received. (IC 5-3-1-2)

This requirement includes bids received for all supplies, goods, machinery and equipment to be purchased or leased, and public works

COMPENSATION FROM TITLE IV-D INCENTIVE FUNDS

IC 31-25-4-23 states that Title IV-D Incentive payments shall be distributed as follows:

- (1) 22.2% to the Title IV-D Incentive Fund;
- (2) 33.4% to the operating budget of the prosecuting attorney; and
- (3) 22.2% to the operating budget of the county clerk.

In the case of *Plummer v. Hegel* App. 2 Dist. 1989, 535 N.E.2d 568, the court held that the prosecuting attorney was entitled to receive incentive payments to encourage enforcement and collections of child support, as additional salary without the county council's approval.

IC 31-25-4-23 (c) states in part that:..."the amounts received as incentive payments may not, without the approval of the county fiscal body, be used to increase or supplement the salary of an elected official."

IC 36-2-7-2 states that the compensation fixed for county officers and employees is in full for all governmental services and in lieu of all fees, per diems, penalties, costs, interest, forfeitures, percentages, commissions, allowances, mileage, and other remuneration.

Based on the two above cited code sections and the case of *Plummer v. Hegel*, it is the audit position of this department that deputies and employees in the offices of the prosecuting attorney and the clerk of the circuit court could be paid additional salary from Title IV-D Incentive Funds without prior approval of the county council.

PAYMENT TO BANK OF COMPENSATION DUE EMPLOYEES

IC 5-10-9-2 provides that an employee of a municipal corporation may make a written request that any compensation due the employee from the municipal corporation be deposited to the employee's account in a bank or trust company. Upon receipt of request, the officer responsible for making the disbursements (County Auditor) may, instead of drawing a check to the requesting employee: (1) Draw a check in favor of the bank or trust company named in the request for the credit of the employee; or (2) in the event more than one employee of the same municipal corporation designates the same bank or trust company, draw a single check in favor of the bank or trust company for the total amount due the employees and transmit the check to the bank or trust company identifying each employee and the amount to be deposited in each employee's account.

PAYMENT TO BANK OF COMPENSATION DUE EMPLOYEES (Continued)

IC 5-10-9-3, provides that payment by a municipal corporation of a check properly endorsed and drawn in accordance with IC 5-10-9 constitutes full payment for the amount due the employee.

The amount to be sent to the bank is the “net” pay for the employee. A copy of each report sent to a bank or trust company must be retained on file with the corresponding payroll claim in the auditor’s office for reference and audit purpose. When a “direct deposit” system is used in the payroll process, the balance of the payroll process would not change except that each employee not receiving a payroll check must be provided a non-negotiable statement of earnings and deductions (Deposit Advice) for each payroll period. Recap sheets for each depository, if applicable, should be maintained indicating direct deposit. Individual wage assignments should be kept on file to support direct deposits.

PAYMENT BY PUBLIC EMPLOYERS OF GROUP HEALTH INSURANCE PREMIUMS

Official Opinion 2002-5 issued October 11, 2002 by the Attorney General of the State of Indiana states in the Conclusion, “The language of IND. CODE 5-10-8-2.6 unambiguously states that public employers may pay a part of the cost of group health insurance premiums for their employees. Rules of statutory construction hold that an unambiguous statute must be held to mean what it plainly expresses. N. Miami Educ. Ass’n, 746 N.E.2d at 382. Therefore, because the statute provides that employers may only pay a part of the cost, this language cannot be expanded or construed to allow employers to pay the full amount. The existence of a collective bargaining agreement allowing employers to pay the full amount would not alter this conclusion, as courts will not enforce contract terms that run contrary to statute or public policy. Ahuja, 675 N.E. 2d at 707.”

DISINTERMENT, DISENTOMBMENT, AND DISINURNMENT

IC 23-14-57-1(c) states in part: “Before issuing a written authorization undersubsection(b), the state department of health shall do the following: (1) obtain written evidence that a licensed funeral director has agreed to be present at the removal and at the reinterment, reentombment, or reinturnment of the remains and cause the completed order of the state department of health to be recorded in the office of the county recorder of the county where the removal occurred.”

The statute does not state that this recording is to be done without a fee being charged. Therefore, our position is that the recording fees as stated in IC 36-2-7-10 apply.



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AMOUNTS AUTHORIZED TO BE RECEIVED BY SHERIFFS FOR BOARD OF PRISONERS

By authority of IC 36-8-10-7, I Bruce Hartman, CPA, State Examiner of the State Board of Accounts, do hereby fix the exact amount per meal which the sheriff of each county in the State of Indiana, shall be entitled to receive for feeding prisoners legally in his charge, including Federal prisoners, for a period of one year, beginning April 15, 2013. Amounts received by the sheriff from the Federal government for board and care of Federal prisoners shall be paid into the County General Fund.

In determining and fixing the amount per meal, the use of wholesome food in quantities and varieties necessary for the preservation of the health of the prisoners is contemplated. All expenses related to preparing and serving meals, except for the costs of food, shall be borne by the county.

The amounts fixed are for meals actually served such prisoners during each respective month. Not more than three meals at county expense are to be served to any one prisoner in any one day.

The term "month" shall mean a period of time beginning April 15, 2013 and thereafter ending on the fourteenth (14th) day of each succeeding month. Claims for meals for the month beginning December 15th will be paid from the appropriation for the succeeding year.

For number of meals served during a period of one month, per meal:

In counties having a population of less than 20,000	\$1.89
In counties having a population of 20,001 to 40,000.	\$1.83
In counties having a population of 40,001 to 60,000.	\$1.75
In counties having a population of 60,001 to 80,000.	\$1.55
In counties having a population of 80,001 to 100,000.	\$1.31
In counties having a population of 100,001 to 200,000.	\$1.19
In counties having a population of 200,001 or over.	\$1.12

The following counties will not be allowed the amounts authorized above:

- Allen
- Lake
- Marion
- Vanderburgh

 Bruce Hartman, CPA
 State Examiner

Dated this 18th day of March, 2013
 DG/TRW:db