

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

JUNE 2004

2004 LAWS AFFECTING CITIES AND TOWNS

The following is a listing of laws enacted by the General Assembly that are related to cities, towns and municipally owned utilities. This is not intended to be an expression of a legal opinion. If you have any questions regarding legal interpretation, please consult your city or town attorney. We have listed the laws in public law order sequence and the references are to the Indiana Code.

PUBLIC LAW 1 – SENATE ENROLLED ACT 1 – EFFECTIVE VARIOUS DATES

PROPERTY TAXES – Amends and adds several sections of the Indiana Code – Eliminates a city or town's ability to bank the unused portion of a maximum tax levy in calculating a city or town's maximum permissible property tax levy. Requires a levy excess fund to be established for property tax collections in excess of 100% (instead of 102%) of a city or town's tax levy. Changes the number of signatures required for a petition and remonstrance procedure to the lesser of 100 or 5% (instead of 250 or 10%) of the property owners in a city or town. Requires the Board of Accounts to design a standard form to initiate the petition and remonstrance process. Prohibits a city or town from promoting a position on such petition and remonstrance. Makes several changes to the assessment appeals process. Adds many new requirements the Department of Local Government Finance must follow concerning reassessment, provisional tax statements, and the assessing of property. Adds library districts to the entities that are subject to review by the units appointing the district's board members if the district proposes a tax rate increase of more than 5%.

PUBLIC LAW 9 – HOUSE ENROLLED ACT 1360 – EFFECTIVE MARCH 1, and JULY 1, 2004

ELECTIONS – Makes several changes to the election laws in Title 3. Allows small towns to change the time of municipal elections for elected town officers. Makes other changes to the laws governing party caucuses, vacancies in office, and town conventions.

PUBLIC LAW 10 – SENATE ENROLLED ACT 19 – EFFECTIVE MARCH 16, 2004

EXTRA HEAVY DUTY HIGHWAYS – Amends IC 9-20-5-4 – Adds portions of US. 6, US 30, and State Road 9 to the list of extra heavy duty highways.

PUBLIC LAW 11 – SENATE ENROLLED ACT 36 – EFFECTIVE MARCH 16, 2004

CONSTITUTIONAL AMENDMENTS - NONCODE – Adds three public questions to the November general election ballot concerning exempting certain property from taxation, establishing a uniform date for elected county officials to begin their terms of office, and procedures to follow when both the office of the governor and lieutenant governor are vacant.

PUBLIC LAW 14 – SENATE ENROLLED ACT 72 – EFFECTIVE VARIOUS DATES

ELECTIONS – Makes several changes to Title 3 – States that the filing of an oath of office by a person who was elected in November of 2003 to a city or town office and such oath was filed before March 1, 2004, is legalized and IC 5-4-1-1.2 (d) does not apply.

PUBLIC LAW 20 - SENATE ENROLLED ACT 296 – EFFECTIVE JANUARY 1, 2005

PROPERTY TAX DEDUCTIONS – Amends IC 6-1.1-12 – Increases property tax deductions for the elderly, blind or disabled, persons with a service connected disability, disabled veterans, World War I veterans and surviving spouses, and certain rehabilitated property by 108%.

PUBLIC LAW 23 – HOUSE ENROLLED ACT 1001 – EFFECTIVE VARIOUS DATES

Amends and adds several sections of the Indiana Code. See Public Law 1 for similar language adopted in Senate Enrolled Act 1.

PUBLIC LAW 26 – HOUSE ENROLLED ACT 1024 – EFFECTIVE JULY 1, 2004

INDUSTRIAL RECOVERY TAX CREDIT – Amends IC 6-3.1-11-15 – Reduces the square footage of a building to qualify for an industrial recovery tax credit from 300,000 to 250,000 square feet.

PUBLIC LAW 34 – HOUSE ENROLLED ACT 1054 – EFFECTIVE JULY 1, 2004

CUMULATIVE CHANNEL MAINTENANCE FUND – Amends IC 8-10-5-17 and IC 8-10-5-22 – Adds IC 8-10-5-23 – Allows a city that creates or participates in the creation of a port authority that includes a channel that is ordinarily navigable to Lake Michigan to charge an annual docking fee and a launch fee per launch or annual launch fee. Such fees are to be receipted to the city's cumulative channel maintenance fund.

PUBLIC LAW 42 – HOUSE ENROLLED ACT 1190 – EFFECTIVE MARCH 6, 2004

PUBLIC UTILITY EMPLOYEES – UTILITY SERVICE INTERRUPTION EMERGENCIES – Adds IC 8-1-8.3 – States that an individual who is the holder of a commercial driver's license and is an employee, an employee of a contractor or an employee of a subcontractor of a public utility in an employment capacity in which the commercial driver's license is used and operates a commercial vehicle as a utility service vehicle and engages in intrastate maintenance or repair work in response to a utility service interruption emergency, is exempt from any regulation of the maximum hours of service that an employee may work under 49 CFR 395.

PUBLIC LAW 45 – HOUSE ENROLLED ACT 1218 – EFFECTIVE JULY 1, 2004

BARRETT LAW ASSESSMENTS - Amends IC 36-9-37-11, IC36-9-37-19, IC 36-9-37-22, and IC 36-9-37-25 – Adds IC 36-9-37-22.5 – Allows for sanitary sewers to be financed through Barrett Law bonds. Allows deferment of collection of assessments by preserving a lien against properties that are in default but are not delinquent for the payment of property taxes, penalties and other assessments. Requires recording of such liens.

PUBLIC LAW 49 – HOUSE ENROLLED ACT 1257 – EFFECTIVE JULY 1, 2004

VOLUNTEER FIREFIGHTERS – ABSENCE FROM EMPLOYMENT TO RESPOND TO EMERGENCIES – Adds IC 36-8-12-10.5 – States that a political subdivision employer may not discipline an employee who is a volunteer firefighter and has notified his employer in writing of this fact: (1) for being absent from employment by reason of responding to a fire or emergency call that was received before the time that the employee was to report to employment; or (2) for leaving the employee's duty station to respond to a fire or an emergency call if the employee has secured authorization from the employee's supervisor to leave the duty station in response to a fire or an emergency call received after the employee has reported to work. The political subdivision employer may require an employee who has been absent from employment to present a written statement from the fire chief or other officer in charge of the volunteer fire department at the time of the absence indicating that the employee was engaged in emergency firefighting or emergency activity at the time of the absence. An employee who is disciplined by the employer in violation may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following:

- (1) Payment of back wages.
- (2) Reinstatement to the employee's former position.
- (3) Fringe benefits wrongly denied or withdrawn.
- (4) Seniority rights wrongly denied or withdrawn.

An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

PUBLIC LAW 50 – HOUSE ENROLLED ACT 1265 – EFFECTIVE JULY 1, 2004

AGGREGATE PRESCRIPTION DRUG PURCHASING PROGRAM – Adds IC 16-47 – Establishes a State Aggregate Prescription Drug Purchasing Program which will be administered by the State Personnel Department. Allows local units of government to participate in the program.

PUBLIC LAW 53 – HOUSE ENROLLED ACT 1293 – EFFECTIVE JULY 1, 2004

WATER BILL ADJUSTMENTS FOR UNDETECTED LEAKS - Adds IC 8-1.5-3.5 – States that a municipal water utility may adjust an unusually large bill if the excess usage reflected in the bill is caused by physical damage to any facility or equipment supplying water to the premises and the damage:

- (1) is not visible or detectable on the customer's premises except upon excavation or some other disturbance of the property; and
- (2) is not the result of an act of the customer, or any agent or contractor hired by the customer.

"Unusually large bill" means a residential water bill that reflects monthly water usage in whatever units measured that is at least two (2) times the customer's average monthly usage at the premises.

A utility that elects to adjust unusually large bills must do as in accordance with policies adopted by the utility. The utility's policies must specify the procedure by which a customer may request an adjustment and prove the damages.

PUBLIC LAW 55 – HOUSE ENROLLED ACT 1304 – EFFECTIVE MARCH 16, 2004

EMERGENCY TELEPHONE SYSTEM FEES – Amends IC 36-8-16-14 – Requires counties that impose fees under IC 36-8-16-5 that contain a municipality that operates a PSAP to submit to each municipality a report of all expenditures paid during the immediately preceding calendar year.

PUBLIC LAW 56 – HOUSE ENROLLED ACT 1306 – EFFECTIVE JULY 1, 2004

PERF AND TRF– COST OF LIVING INCREASE - Adds IC 5-10.2-5-36 and IC 5-10.2-5-37 – Increases the monthly benefit by two percent 2%. The monthly amount of the increase may not be less than five dollars (\$5).

PUBLIC LAW 62 – HOUSE ENROLLED ACT 1352 – EFFECTIVE JULY 1, 2004

SOUTHWEST INDIANA LAW ENFORCEMENT ACADEMY – Adds IC 5-2-1-10.5 and amends IC 5-2-1-9 - Allows the Law Enforcement Training Board to establish a Southwest Indiana Law Enforcement Academy.

PUBLIC LAW 63 – HOUSE ENROLLED ACT 1438 – EFFECTIVE JULY 1, 2005

ENTERPRISE ZONE BOARD AND STUDY COMMISSION – Amends IC 4-1.5-4-2 – Changes the number of members on the board that are appointed by the governor. Creates an enterprise zone study commission to study inventory tax deductions within enterprise zones.

PUBLIC LAW 64 – HOUSE ENROLLED ACT 1005 – EFFECTIVE MARCH 17, 2004 AND JULY 1, 2004

PROPERTY TAXES – Amends several chapters of IC 6-1.1 – Allows for property tax abatement of logistical distribution equipment and new information technology equipment. Establishes a pilot program for disclosing more information on tax statements covering deductions and credits.

FIRST CLASS CITIES – Amends IC 36-4-1-1 – Raises the population to be classified as a first class city from 250,000 to 600,000.

PROFESSIONAL SPORTS AND CONVENTION DEVELOPMENT AREAS – Amends IC 36-7-31.3-9 and IC 36-7-31.3-19 – Allows certain cities to adopt a professional sports and convention development area. Allows the City of Gary to designate more than one facility as an area.

PROPERTY TAX REPLACEMENT STUDY COMMISSION AND LOCAL GOVERNMENT EFFICIENCY AND FINANCING STUDY COMMISSION – Establishes new commissions to study the elimination or reduction of property taxes and the consolidation of certain government services.

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.

PUBLIC LAW 85 – HOUSE ENROLLED ACT 1437 – EFFECTIVE JULY 1, 2004

DRUG COURTS – Amends IC 12-23-14.5-14 – Allows persons referred to a drug court for dealing offenses to participate in the program.

JUDICIAL ADMINISTRATION FEE – Adds IC 33-37-5-21.2 - Amends several sections of IC 33-37-4 and Amends IC 33-37-7-7 and IC 33-37-7-8 – States that in each action in a court described in IC 33-37-1-1, the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two dollars (\$2).

In each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have violated an infraction ; or
- (4) found to have violated an ordinance;

the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar (\$1) and after June 30, 2005, two dollars (\$2). The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state general fund 100% of the judicial administration fees.

CORRECTIONS OFFICER – Amends IC 35-42-2-6 – Adds persons employed by a city or town court to the definition of a corrections officer for the purposes of certain battery cases.

PUBLIC LAW 87 – HOUSE ENROLLED ACT 1449 – EFFECTIVE MARCH 17, 2004

CURFEW VIOLATIONS – Amends IC 31-37-3 – States that a law enforcement officer may not detain a child or take a child into custody based on a violation of the curfew law unless the law enforcement officer, after making a reasonable determination and considering the facts and surrounding circumstances, reasonably believes that the child violated the curfew law and there is no legal defense to the violation.

PUBLIC LAW 89 – HOUSE ENROLLED ACT 1204 – EFFECTIVE JULY 1, 2004

STATE INSTITUTION REUSE AUTHORITY – Adds IC 36-7-33 – Allows cities and towns to pass an ordinance to establish a state institution reuse authority.

PUBLIC LAW 90 – HOUSE ENROLLED ACT 1055 – EFFECTIVE JULY 1, 2004

COMMUNITY REVITALIZATION ENHANCEMENT DISTRICTS – Amends IC 6-3.1-19 and IC 36-7-13 Makes changes to the laws allowing a taxpayer to take a credit for certain qualified investments in the district. Requires the district to terminate in 15 years.

RANDOLPH COUNTY CREDIT TAX – Amends IC 6-3.5-7-22.5 - Allows CREDIT tax revenue to be used to construct, acquire, renovate, and equip the county courthouse.

PROPERTY TAX EXEMPTIONS – Allows certain religious organizations and youth baseball and softball organizations to obtain tax exemptions for prior years' taxes.

PUBLIC LAW 93 – HOUSE ENROLLED ACT 1266 – EFFECTIVE JULY 1, 2004

ONLINE REVERSE AUCTIONS – Adds IC 4-13-17 and IC 5-22-7.5 – Amends IC 5-22-3-4 and IC 5-22-7-5 – States that a purchasing agency may conduct a reverse auction for the purchase of supplies by using an Internet purchasing site to:

- (1) issue an invitation for bids; and
- (2) receive bids.

Before conducting a reverse auction, the purchasing agency must adopt written policies that do the following:

- (1) Establish procedures for all the following:
 - (A) Transmitting notices, solicitations, and specifications.
 - (B) Receiving offers.
 - (C) Making payments.
 - (D) Protecting:
 - (i) the identity of an offeror; and
 - (ii) the amount of an offer until the time fixed for the opening of offers.
 - (E) For a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing.
 - (F) Establishing the deadline by which offers must be received and will be considered to be open and available for public inspection.
 - (G) Establishing the procedure for the opening of offers.
- (2) Require the purchasing agency to maintain adequate documentation regarding reverse auctions so that the transactions may be audited as provided by law.

Written policies that comply with rules for an Internet public purchasing site adopted by the Indiana department of administration under IC 4-13-17-4 satisfy the requirements of this law.

If a purchasing agency issues an invitation for bids using a reverse auction conducted through an Internet purchasing site, only bids made:

- (1) in accordance with the policies described above; and
 - (2) through the Internet purchasing site;
- may be evaluated by the purchasing entity at the close of bidding.

When used for a reverse auction, an Internet purchasing site must do the following:

- (1) Provide information that the purchasing entity considers necessary or beneficial to potential bidders.
- (2) Display the amount of all bids previously submitted regarding the reverse auction for public viewing.
- (3) Conceal information that identifies a bidder.
- (4) Comply with this law.

The purchasing agency may charge a bidder in a reverse auction a fee set in the written policies adopted above.

For purposes of IC 5-22-7-6, a bid made through an Internet purchasing site is considered to be opened when a computer generated record of the information contained in all bids for a proposed purchase that were received by the site not later than the posted bid deadline is reviewed publicly by the purchasing agency in the presence of one (1) or more witnesses at the time the place designated in the invitation for bids.

IC 5-22-16-6 (a)(2) does not apply to a reverse auction.

"Construction equipment" means equipment used in construction work the unit price of which is greater than ten thousand dollars (\$10,000).

- (b) A purchasing agency may not use a reverse auction to purchase construction equipment.

PUBLIC LAW 94 – HOUSE ENROLLED ACT 1285 – EFFECTIVE MARCH 18, 2004 AND SEPTEMBER 1, 2003 (RETROACTIVE) PERF RECORDS-CONFIDENTIALITY – Amends IC 5-10-5.5-3 – States that PERF records of individual members are confidential except for the name and years of service of a member. Requires the pension management oversight commission to examine and make recommendations regarding the feasibility of authorizing members to withdraw, before retirement, a member's contributions when the member demonstrates an unmediated and great financial need.

PUBLIC LAW 95 – HOUSE ENROLLED ACT 1401 – EFFECTIVE JULY 1, 2004
JUDICIAL INSURANCE ADJUSTMENT FEE – Adds IC 33-37-5-25 – Amends IC 33-37-4 and IC 33-37-7 – States that each action in which a person is:

- (1) convicted of an offense;
- (2) required to pay a pretrial diversion fee;
- (3) found to have violated an infraction; or
- (4) found to have violated an ordinance;

the clerk shall collect a judicial insurance adjustment fee of one dollar (\$1).
The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

PUBLIC LAW 97 – SENATE ENROLLED ACT 106 – EFFECTIVE VARIOUS DATES
TECHNICAL CORRECTIONS – Makes numerous corrections to the Indiana Code.

PUBLIC LAW 98 – SENATE ENROLLED ACT 263 – EFFECTIVE JULY 1, 2004
TITLE 33 RECODIFICATION – Recodifies all of Title 33 of the Indiana Code dealing with courts and court costs.

PUBLIC LAW 282 (2003) – VETO OVERRIDE - HOUSE ENROLLED ACT 1798 – EFFECTIVE JULY 1, 2003
STORM WATER MANAGEMENT – Amends IC 8-1.5-3 – Allows the legislative body of a third class city to adopt an ordinance to provide for the control of any or all of its storm water facilities by a municipal works board, the legislative body, a utility service board, or a department of water works.

HANDLING LAW ENFORCEMENT CONTINUING EDUCATION PROGRAM FEES

1. Each court is to assess a \$3 law enforcement continuing education program fee on 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(b)]
2. 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]
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]
4. A law enforcement agency may receive funds from a County User Fee Fund or a City or Town 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. [IC 5-2-8-2]
5. Claims may be filed as often as monthly but must be filed in the same local fiscal year in which the fees are collected. [IC 5-2-8-3 (f)]
6. 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 (b)]
7. 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 purpose. [IC 5-2-8-6]
8. 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]
9. Any funds remaining in the Local Law Enforcement Continuing Education Fund at year end do not revert.

LAW ENFORCEMENT CONTINUING EDUCATION PROGRAM FEES –
FILING VERIFIED STATEMENTS OF CAUSE NUMBERS

Since the statutes (IC 5-2-8, IC 33-37-8) are silent regarding by whom or in what manner the "verified statement of cause numbers" will be prepared, the State Board of Accounts has adopted the following suggested procedures to handle such filings:

1. The applicable law enforcement agency should prepare the claim. At a minimum, the claim should indicate each fee collected by date of payment, cause number, defendant name, and receipt number if available.
2. The claim should be filed by the law enforcement agency with the fiscal officer of the governmental unit.
3. The fiscal officer shall transmit the claim to the court clerk in order for the claim to be verified.
4. Once the court clerk verifies the fees claimed on the claim, the claim shall be transferred back to the fiscal officer for processing in the same manner as all other claims, i.e. submitted for the board's approval and subsequent payment.
5. An alternative to steps number 3 and number 4 has been approved for some units. In this instance when the court clerk transmits the monthly collection of law enforcement continuing education fees to the fiscal officer, the court clerk includes a listing of the fees transmitted by date of payment, cause number, defendant name, and the law enforcement agency to which the fees are attributable. By doing this, the fiscal officer is able to verify the fees claimed by the various law enforcement agencies and is not required to go back to the court clerk.

It would also be permissible for the law enforcement agency to attach a copy of such listing that is provided by a court to a claim once the law enforcement agency verified the accuracy of the data contained in the listing.

WASTEWATER UTILITY DEPOSITS

The common council of a city or the town council of a town that operates a sewage works may, by ordinance, require the owners, lessees, or users of property served by the works to pay a deposit to ensure payment of sewer fees.

The deposit required may not exceed the estimated average payment due from the property served by the sewage works for a three (3) month period. The deposit must be retained in a separate fund.

The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:

- (1) has been conveyed or transferred to another person; or
- (2) no longer uses or is connected with any part of the municipal sewage system.

A statement must include the name and address of the person to whom the property is conveyed or transferred.

If a depositor fails to satisfy costs and fees within sixty (60) days after the termination of his use or ownership of the property served, he forfeits his deposit and all accrued interest. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains due after application of the forfeiture may be collected in the manner prescribed by IC 36-9-23-31 or IC 36-9-23-32. A deposit may be used to satisfy all or part of any judgment awarded the municipality under IC 36-9-23-31. A deposit made that has remained unclaimed by the depositor for more than seven (7) years after the termination of the services for which the deposit was made becomes the property of the municipality. IC 32-34-1 (unclaimed property) does not apply to such deposits. (IC 36-9-23-28)

UNCLAIMED OVERPAYMENTS – WASTEWATER UTILITIES

An overpayment of sewer fees by an owner, lessee, or user of property served by the sewage works that remains unclaimed for more than seven (7) years after the termination of the service for which overpayment was made becomes the property of the municipality. (IC 36-9-23-28.5)

UNCLAIMED WATER, GAS AND ELECTRIC UTILITY DEPOSITS

Public Law 10, Acts of 1997, amended IC 32-34-1-1 to exempt unclaimed meter deposits required by a municipally owned water, gas or electric utility from the requirements of the Unclaimed Property Act.

These unclaimed meter deposits may be transferred to the utility's operating fund in accordance with the utility's written policy covering such deposits.

DETAILED SPECIFICATIONS NOT REQUIRED IN NOTICE TO BIDDERS

When advertising for bids, it is not necessary to list in detail the specifications of the job, material, or project under consideration. It is sufficient for the ad to state specifications may be inspected in the city or town office.

The advertising must be in accordance with IC 5-3-1-2 (e) and the specifications must be clear, and subject to bidder's inspection. The advertisement should list the items which are to be purchased or contracted for, but need not include the entire listing of component items.

OPENING BIDS

Municipalities are prohibited from requiring any bidder to submit his bid earlier than the time of the meeting at which the bids are to be opened. (IC 5-22 and IC 36-1-12-4)

The meeting for receiving bids must be open to the public. All bids received must be made available to the public.

CUMULATIVE CAPITAL DEVELOPMENT (CCD) FUNDS – RATES

The allowable rates for the CCD fund are as follow:

ADOPING COUNTY (CAGIT, COIT, EDIT)

1 st Year:	.0167
2 nd Year:	.0333
3 rd Year:	.0500

NON-ADOPTING COUNTY (NO INCOME TAX)

1 st Year	.0133
2 nd Year	.0267
3 rd Year	.0400

UTILITY RECEIPTS TAX

The following have been determined to be taxable receipts for the purpose of calculating the utility receipts tax by the Indiana Department of Revenue:

1. Penalties,
2. Shut off fees,
3. Reconnect fees,
4. Hydrant rental fees paid by water utility customers, and
5. Trash removal fees.

Furthermore, IC 6-2.3-5-2 does not allow for bad debts to be deducted from revenue in figuring the tax unless you are an accrual basis taxpayer.

All questions on the utility receipts tax should be directed to the Indiana Department of Revenue at (317) 615-2643.

RETAIL SALES TAX

The Indiana Department of Revenue has also ruled that the following are subject to retail sales tax under IC 6-2.5:

1. Penalties
2. Shelter House rentals
3. Golf cart rentals, and
4. Hydrant rental fees paid by water utility customers.

The sale of trash bags sales are subject to retail sales tax even if the charge for the bags includes trash removal fees unless those fees are separately stated per IC 6-2.5-1-1.

Trash removal fees are not subject to retail sales tax as it is service unless the fee is combined as a single charge for the purchase of tangible personal property such as trash bags.

All questions concerning the retail sales tax should be directed to the Indiana Department of Revenue at (317) 233-4015.

PUBLICATION OF ORDINANCES PRESCRIBING PENALTIES – CITIES

An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under IC 36-4-16-4 (c); or
- (2) there is an urgent necessity requiring its immediate effectiveness, the city executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in each of districts from which members are elected to the legislative body.

Except as provided in IC 36-4-16-4(e), if a city publishes any of its ordinances on book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

This does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

An ordinance increasing a building permit fee on new development must:

- (1) be published:
 - (A) one (1) time in accordance with IC 5-3-1; and
 - (B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and
- (2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1). (IC 36-4-16-4)

PUBLICATION OF ORDINANCES PRESCRIBING PENALTIES – TOWNS

An ordinance prescribing a penalty for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under IC 36-1-5; or
- (2) it declares an emergency requiring its immediate effectiveness and is posted in:
 - (A) one (1) public place in each district in the town; or
 - (B) a number of public places in the town equal to the number of town legislative body members, if the town has abolished legislative body districts under IC 36-5-2-4.1.

This does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

An ordinance increasing a building permit fee on new development must:

- (1) be published:
 - (A) one (1) time in accordance with IC 5-3-1; and
 - (B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and
- (2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1). (IC 36-5-2-10)

LEAVE OF ABSENCE – OFFICERS AND EMPLOYEES WHO ARE MEMBERS OF THE INDIANA
NATIONAL GUARD OR RESERVES

Reserve Duty

Each officer and employee of the State of Indiana or of any county, township, municipality or school corporation in Indiana who is:

- (1) A member of the Indiana National Guard,
- (2) A member of a reserve component, or
- (3) A member of the retired personnel of the naval, air, or ground force of the United States,

is entitled to receive from the member's employer a leave of absence from the member's respective duties in addition to regular vacation period without loss of time or pay for the time that the member is:

- (1) on training duties of the state under the order of the governor as commander in chief; or
- (2) a member of any reserve component under the order of the reserve component authority;

for any consecutive or nonconsecutive period that does not exceed a total of fifteen (15) days in any calendar year.

The entitlement to a leave of absence without loss of time or pay is not at the discretion of the member's employer. [IC 10-16-7-5(b)]

Active Duty

A member is entitled to receive from the member's employer a leave of absence from the member's respective duties, in addition to the members regular vacation period, for the total number of days that the member is on state active duty under IC 10-16-7-7. This leave of absence may be with or without loss of time or pay at the discretion of the member's employer. [IC 10-16-7-5 (c)]

LEVY EXCESS FUND

Each year the Department of Local Government Finance will certify to each city and town figures which show one hundred percent (100%) of the tax levy for each fund. If the property taxes received exceed one hundred percent (100%) of the levy, the excess shall be receipted to a levy excess fund. However, if the amount is less than one hundred dollars (\$100), no transfer is required.

Detailed instructions on setting up a levy excess fund are contained in the *"Accounting and Uniform Compliance Guidelines Manual for Cities and Towns"* beginning on pages 61-51.