

TOWNSHIP BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

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June 2011

ITEMS TO REMEMBER

JUNE

June 1: On or before June 1 and December 1 of each year (or more frequently if the county legislative body adopts an ordinance requiring additional certifications) the township shall certify a list of the names and addresses to the county treasurer of each person who has money due the person from the township. (IC 6-1.1-22-14)

June 20: If a school township has become a part of a school corporation organized under chapter 202, Acts 1959, as amended, and if the reorganized school unit is obligated for civil aid bond retirement, the trustee will receive from the school corporation an amount of money sufficient to pay civil aid bonds and coupons coming due July 1. (IC 20-23-4-8)

June: All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. (IC 5-13-6-1) (The preceding months ending record balance must be reconciled with the respective bank statement(s).)

See Public Law 211, Effective July 1, 2007 concerning State Revenue Department filing requirements.

JULY

July 4: Independence Day - Legal Holiday. (IC 1-1-9-1)

July 15: Last day to make pension report and payment for second quarter by townships participating in PERF.

July 31: Last day to file quarterly report, Form 941, to the Internal Revenue Service for federal and social security taxes for the second quarter.

July 31: Last day to make report for second quarter to the Department of Workforce Development.

July: All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. (IC 5-13-6-1) (The preceding months ending record balance must be reconciled with the respective bank statement(s).)

See Public Law 211, Effective July 1, 2007 concerning State Revenue Department filing requirements.

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AUGUST

NOTE: See the Township Bulletin, Volume 290, August 2011 for budget dates or call the Department of Local Government Finance at (317) 232-3773

NOTE: The township board should set the salaries of township officials and employees, in conjunction with the preparation and completion of the township budget. (Use Township Form 17)

August: All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. (IC 5-13-6-1) (The preceding months ending record balance must be reconciled with the respective bank statement(s).)

See Public Law 211, Effective July 1, 2007 concerning State Revenue Department filing requirements.

CEMETERIES - OFFICIAL OPINION 91-5

The Attorney General of the State of Indiana, in response to a request for an opinion whether a cemetery may legally deny families the right to use United States government veteran markers provided the following conclusion:

It is, therefore, my Official Opinion that although the owner of every cemetery may make, adopt, and enforce rules and regulations specifying the size and type of markers or monuments under Indiana Code Section 23-14-1-11, no owner of a cemetery may adopt and enforce rules and regulations in violation of Indiana Code Chapter 23-14-11, which prohibits the board of trustees, or other governing body or custodian, controlling any cemetery in the state from refusing to allow the setting up of markers for the graves of deceased soldiers in its grounds provided that such markers shall conform to the standard markers furnished by the United States government for marking the graves of deceased soldiers of the United States army.

MILEAGE

The township trustee is entitled to a sum for mileage in the performance of his official duties equal to the sum per mile paid to State officers and employees (IC 36-6-8-3). The State rate from July 1, 2008 to September 30, 2009, was \$.44 per mile. The State rate October 1, 2009 until April 30, 2011 was \$.40 per mile. The State rate effective May 1, 2011, is \$.44 per mile.

Mileage Claim Form Number 101 shall be properly completed, listing dates of authorized travel, details of travel, miles traveled, nature of business, etc., for reimbursements for mileage before payment is made.

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SALES TAX - EXEMPTIONS - AUDIT POSITIONS

Following are some general comments pertaining to the State Board of Accounts audit position regarding local governmental unit's exemption from sales tax:

1. Items should be purchased through the issuance of purchase orders and paid for by township checks to avoid the problem of reimbursing employees for sales tax paid on materials purchased for the township when the township is exempt from sales tax.
2. Sales tax paid on lodging and meals by officials and employees while in travel status on township business of the township may be reimbursed in accordance with an official travel expense reimbursement policy adopted by resolution of the township.
3. We have often noted that out-of-state vendors not assessing sales tax on materials purchased out-of-state by a governmental unit for delivery in Indiana.
4. The Indiana Department of Revenue has consistently taken a position that the furnishing of food, fuel, drugs, etc., by the township to needy persons (Township Assistance Laws) are exempt from sales tax because the commodities are predominantly for use in the performance of governmental functions. The township would not be exempt, however, from paying sales tax on utility bills because the utility bills of Township Assistance recipients are billed in the name of each individual and not in the name of the township and individuals are not exempt from the payment of sales tax. Therefore, all purchase orders issued directly to a vendor, except for utility bills, are normally, exempt from sales tax.

Should you desire additional information concerning State taxation matters, we suggest you contact the Indiana Department of Revenue at 100 North Senate Avenue, Room N203, Indianapolis, IN 46204, (317) 233-3242.

DONATIONS

Following is the audit position of the State Board of Accounts concerning townships receiving donations.

1. Restricted donations are defined as those to which the donor has attached terms, conditions, and/or purposes.
2. Unrestricted donations are defined as those to which the donor has not attached terms, conditions, or purposes.
3. The township has the option to accept or reject both restricted and/or unrestricted donations. Approval shall be obtained prior to accepting a donation.
4. The Attorney General held in Official Opinion 68 of 1961 that no appropriation is necessary to expend monies donated for a specific purpose by a donor.

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DONATIONS

(Continued)

5. Restricted donations should be receipted into a separate fund and properly titled. Such fund should not be commingled with other funds within the accounting system. An exception would be concerning statutory requirements; i.e., expenditures related to fire protection are required to be from the Firefighting Fund, etc.
6. Expenditures may be made for the purpose(s) restricted without appropriation.
7. Unrestricted donations should be receipted into the township fund and must be appropriated prior to subsequent expenditure.

DISPOSITION OF OLD OUTSTANDING CHECKS

Pursuant to IC 5-11-10.5, all checks outstanding and unpaid for a period of two years as of December 31 of each are void.

Not later than March 1 of each year, the trustee shall prepare or cause to be prepared a list in duplicate of all checks outstanding for two or more years as of December 31 last preceding year. The original copy shall be filed with the board of finance of the township and the duplicate copy maintained by the trustee.

The trustee shall enter the amounts so listed as a receipt to the fund or funds upon which they were originally drawn and remove the checks from the list of outstanding checks. If the fund on which the checks were originally drawn is not in existence, or cannot be ascertained, the amount of such checks shall be receipted to the township fund.

Each list prepared must show:

- (1) the date of issue of each check;
- (2) the fund upon which the check was originally drawn;
- (3) the name of the payee;
- (4) the amount of each check issued; and
- (5) the total amount represented by the checks listed for each fund.

IC 5-11-10.5-6 formerly provided for the issuance of another check to replace a canceled check, if a claim was properly filed by the vendor or the person to whom the check was issued within seven years after the date of issuance of the original check. The check would have been drawn upon the fund to which the canceled check was receipted and any check outstanding for more than seven years was to be considered void, and no recovery could be made. However, IC 5-11-10.5-6 was repealed in 1999. Therefore, we suggest the township attorney provide written guidance concerning claims that might be presented.

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GUARANTEED ENERGY SAVINGS CONTRACTS

Undocumented Claims

We are still being advised of situations where a Township may not have provided information which would indicate that a contract complies with the Indiana Code provisions referenced below. Examples would include "stipulated savings" that are not documented by "industry engineering standards", items which were "causally connected work" but not documented by "industry engineering standards" in accordance with IC 36-1-12.5-11, or improvements that are not "causally connected" to an energy conservation measure but are greater than fifteen percent (15%) of the total value of the guaranteed energy savings contract or lack of in compliance with IC 36-1-12.5-10.

IC 36-1-12-1(e) of the Public Works Law states in part "As an alternative to this chapter, the governing body . . . may . . . enter into a guaranteed savings contract as permitted under IC 36-1-12.5."

IC 36-1-12.5-1 (a) states in part "As used in this chapter, "conservation measure": (1) means: (A) a facility alteration; (B) an alteration of a structure (as defined in IC 36-1-10-2); (C) a technology upgrade; or (D) with respect to an installation described in subdivision (2)(G) or (2)(H), an alteration of a structure or system; designed to . . . reduce energy . . . or other operating costs. . ."

IC 36-1-12.5-5 states in part "(a) The governing body may enter into . . . a guaranteed savings contract with a qualified provider to . . . reduce the Township's . . . energy . . . or operating costs if, after review of the report described in section 6 of this chapter, the governing body finds: (1) in the case of conservation measures . . . that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount to be saved in energy consumption costs and other operating costs over twenty (20) years from the date of installation if the recommendations in the report were followed; . . . (3) in the case of a guaranteed savings contract, the qualified provider provides a written guarantee as described in subsection (d)(3)."

Repayment of Costs in Excess of Savings

Please note IC 36-1-12.5-5 states in part "(d) An agreement to participate in a . . . guaranteed savings contract under this section must provide that: . . . (3) in the case of the guaranteed savings contract: (A) the: (i) savings in energy and . . . and other operating costs; . . . due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and (B) the qualified provider will reimburse the School Corporation . . . for the difference between the guaranteed savings and the actual savings . . ."

Stipulated Savings and Industry Engineering Standards

IC 36-1-12.5-0.5 states "As used in this chapter, 'actual savings' includes stipulated savings."

IC 36-1-12.5-3.7 states in part "As used in this chapter, 'stipulated savings' are assumed savings that are documented by industry engineering standards."

IC 36-1-12.5-11 states in part "(a) A guaranteed savings contract that includes stipulated savings must specify the methodology used to calculate the savings using industry engineering standards. (b) Stipulated savings may be used for conservation measures including . . . (11) Any work that is causally connected to the energy conservation measures listed in subdivisions (1) through (10). (c) The guaranteed savings contract shall: describe stipulated savings for: (A) conservation measures; and (B) work causally connected to the energy conservation measures; and (2) document assumptions by industry engineering standards."

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GUARANTEED ENERGY SAVINGS CONTRACTS

(Continued)

Non "Causally connected work"

IC 36-1-12.5-0.7 states "As used in this chapter, 'causally connected work' means work that is required to properly implement an energy conservation measure."

IC 36-1-12.5-12 states in part "(a) An improvement that is not causally connected to a conservation measure may be included in a guaranteed energy savings contract if: the total value of the improvement does not exceed fifteen percent (15%) of the total value of the guaranteed savings contract . . ."

Reports

IC 36-1-12.5-10 states in part "The governing body shall: (1) provide to the lieutenant governor not more than sixty (60) days after the date of execution of the guaranteed savings contract: (A) a copy of the executed guaranteed savings contract; (B) the: (i) energy . . . costs; . . . before the date of execution of the guaranteed savings contract; and (C) the documentation using industry engineering standards for: (i) stipulated savings; and (ii) related capital expenditures; and (2) annually report to the lieutenant governor, in accordance with procedures established by the lieutenant governor, the savings resulting in the previous year from the guaranteed savings . . ."

Audit Exceptions

The State Board of Accounts will take audit exception to payments not in accordance with by IC 36-1-12.5-1 et seq. The Township should request repayment for payments not authorized by IC 36-1-12.5-1 et seq. in accordance with IC 36-1-12.5-5. The State Board of Accounts will request repayment of unauthorized payments which have not been reimbursed to the Township by the end of the contract period.

Additionally, the State Board of Accounts will take audit exception if the Township has not properly filed reports as required by IC 36-1-12.5-10.

The State Board of Accounts is also of the audit position that political subdivisions are required to comply with all grant agreements, rules, regulations, bulletins, directives, letters, letter rulings and filing requirements concerning reports and other procedural matters of federal and state agencies, including opinions of the Attorney General of the State of Indiana, and court decisions. Governmental units should file accurate reports required by federal and state agencies. Noncompliance may require corrective action.

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BAKER BEGINS-NEMETH RETIRES

Many of you have provided enjoyment for me with your various responses through the years to "What's the good word?" "Retirement" would be my response to the question today as I undertake a bittersweet moment in my life and retire effective June 30, 2011 after 38 years with the best Department in State government, the State Board of Accounts.

I have been privileged to have worked with not only our own fine staff, members of the Legislature and other State Agencies, but also with many dedicated local public officials, including school corporation officials for over 25 years, township officials for more than 28 years and prosecuting attorneys, sheriff and court officials after I started in our Office over 30 years ago. Additionally, I have always been appreciative of the representatives of the governmental Associations with which I have worked.

I believe Tammy Baker and in a short while Ryan Preston, will be providing you with their best efforts and service on behalf of the State Board of Accounts. I know you will extend the same assistance and courtesies to them as have been so generously provided to me all these years.

Accomplishing duties you were trained to perform in auditing while also being afforded the opportunity to try to provide assistance to public officials on a day to day basis has provided a very satisfying and rewarding public service career with which I have been blessed. I am hopeful to continue to provide a form of public service in going forward in my life and also enjoying my family even more.

I sincerely appreciate having known and worked with all of you and wish you the very best.

Take Care,
Chuck Nemeth

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NEW LAWS AFFECTING TOWNSHIPS

PUBLIC LAW 2 – HOUSE ENROLLED ACT 1450 – EFFECTIVE VARIOUS DATES. UNEMPLOYMENT INSURANCE. Amends and adds to IC 22-4 and makes various changes in unemployment insurance.

PUBLIC LAW 12 – SENATE ENROLLED ACT 86 – EFFECTIVE VARIOUS DATES. UNEMPLOYMENT BENEFITS. Amends and adds to IC 22-4 and provides various changes regarding unemployment benefits.

PUBLIC LAW 13 - SENATE ENROLLED ACT 12 - EFFECTIVE VARIOUS DATES. PERF AND TRF. MAKES VARIOUS CHANGES REGARDING ADMINISTRATION ISSUES FOR PERF AND TRF.

Amends IC 5-10-5.5-8 to provide in part (d) After December 31, 2011, an employer shall submit the contributions paid by or on behalf of a participant under this section by electronic funds transfer in accordance with section 8.5 of this chapter. Also adds IC 5-10-5.5-8.5 (a) This section applies to reports, records, and contributions submitted after December 31, 2011. (b) As used in this section, "electronic funds transfer" has the meaning set forth in IC 4-8.1-2-7(f). (c) An employer shall submit through the use of electronic funds transfer: (1) employer contributions, determined by the board, to fund the retirement, disability, and survivor benefits described in this chapter; and (2) contributions paid by or on behalf of a participant under section 8 of this chapter. (d) An employer shall submit in a uniform format through a secure connection over the Internet or through other electronic means specified by the board the reports and records required by the board under this chapter. (e) The board shall establish by rule the due dates for all reports, records, and contributions required under this chapter.

Amends sections of IC 36-8-8 concerning Fire Pension Plans.

PUBLIC LAW 16 - SENATE ENROLLED ACT 76 - EFFECTIVE JULY 1, 2011. PERF

Amends IC 5-10-5.5-1 PERF specifying by rule the interest rate credited to a participant's contributions for the 1977 Firefighters' Pension Fund.

Amends IC 36-8 concerning Fire Pension Plans.

PUBLIC LAW 17 – SENATE ENROLLED ACT 411 – EFFECTIVE JULY 1, 2011. FIREARMS. Provides for possible civil actions for requiring applicants to disclose information regarding firearms under certain circumstances.

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PUBLIC LAW 18 - SENATE ENROLLED ACT 418 - EFFECTIVE JULY 1, 2011. COMMON CONSTRUCTION WAGE.

Amends IC 5-16-7-1 concerning common construction wage committees to provide in part (d) The rate of wages determined by the committee under subsection (c) applies to any contract for which the awarding government agency let's not later than three (3) months after the date the committee determines the rate of wages. The committee shall establish wages for all classifications of work that may be employed on projects subject to contracts let by the awarding agency for three (3) months after the date the committee determines the rate of wages. If an awarding agency advertises for a contract that includes classifications that are not listed on the existing wage scale, the awarding agency shall form a new committee under subsection (b) to determine the classifications and wages on the contract. (e) If the awarding government agency lets for a contract later than three (3) months after the committee determines the rate of wages, the awarding government agency shall form a new committee under subsection (b) to determine a rate of wages for the contract. The rate of wages determined under this subsection applies to any contract for which the awarding government agency let's not later than three (3) months after the rate of wages is determined under this subsection.

Amends IC 5-16-7-4 to remove a requirement that the department of workforce development must provide reports for each meeting of the committee.

PUBLIC LAW 22 - SENATE ENROLLED ACT 524 - EFFECTIVE JULY 1, 2011. PUBLIC EMPLOYEES' DEFINED CONTRIBUTION PLAN.

Adds a non code provision to provide in SECTION 3. (a) As used in this SECTION, "commission" refers to the pension management oversight commission established by IC 2-5-12-1. (b) The general assembly urges the legislative council to assign the commission the task of studying the issue of whether to establish a defined contribution plan for: (1) new employees of political subdivisions that participate in the public employees' retirement fund established by IC 5-10.3-2-1; and (2) new employees who are eligible to become members of the Indiana state teachers' retirement fund established by IC5-10.4-2-1. The study must include a survey of the design and cost of the pension and retirement plans used by other states. (c) If the commission is assigned the topic described in subsection (b), the commission shall issue a final report to the legislative council containing the commission's findings and recommendations, including any recommended legislation concerning the topic, not later than November 1, 2011. (d) This SECTION expires June 30, 2012.

PUBLIC LAW 23 - SENATE ENROLLED ACT 549 - EFFECTIVE JULY 1, 2011. PERF AND TRF MATTERS. Amends and adds to various sections of IC 2, IC 4, IC 5 and adds IC 5-10.5 concerning a Modernization Act for PERF and TRF.

PUBLIC LAW 42 – SENATE ENROLLDED ACT 295 – EFFECTIVE APRIL 20, 2011. TECHNICAL CORRECTIONS. Makes technical corrections to several sections of the Indiana Code.

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PUBLIC LAW 56 - HOUSE ENROLLED ACT 1393 – EFFECTIVE April 20, 2011. FIREFIGHTER CERTIFICATION TESTS.

Adds IC 36-8-10.5-10 to provide this section applies to the following certifications: (1) Mandatory training (as described in 655 IAC 1-4-2). (2) Basic firefighter (as described in 655 IAC 1-2.1-3). (3) Firefighter I (as described in 655 IAC 1-2.1-4). (4) Firefighter II (as described in 655 IAC 1-2.1-5). (b) Before January 2, 2012, the board may not mandate that the written tests for the certifications listed in subsection (a) be taken solely using a computer, the Internet, or another online arrangement.

PUBLIC LAW 58 - SENATE ENROLLED ACT 26 - EFFECTIVE JULY 1, 2011. LOCAL GOVERNMENT REORGANIZATION.

Adds IC 36-1-7-16 to provide in part (a) This section applies to a political subdivision if: (1) the political subdivision enters into an agreement with one (1) or more other political subdivisions under this chapter to transfer, combine, or share powers, duties, functions, or resources; (2) the political subdivision realizes through the transfer, combination, or sharing of powers, duties, functions, or resources a: (A) savings; or (B) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the transfer, combination, or sharing of powers, duties, functions, or resources had not taken place; and (3) the department of local government finance will otherwise decrease the maximum permissible property tax levies, maximum permissible property tax rates, or budgets of the political subdivision to: (A) eliminate double taxation by different political subdivisions for services; or (B) eliminate any excess by which the amount of property taxes imposed by the political subdivision exceeds the amount necessary to pay for services.

Adds IC 36-1-8-17 concerning various provisions regarding the Department of Local Government Finance establishing criteria for making an adjustment to the maximum permissible property tax levies. Also amends IC 36-1.5-3-5 regarding the Department of Local Government Finance establishing criteria for making adjustments to maximum levies.

Amends IC 36-6-1.5-12 to provide in part (b) The department of local government finance shall establish criteria for making an adjustment to the maximum permissible property tax levies, maximum permissible property tax rates, and budgets under IC 6-1.1-17 and IC 6-1.1-18.5 if the new township realizes through a merger under this chapter a: (1) savings; or (2) reduction in the reasonably foreseeable expenses that would otherwise have been incurred by the political subdivision if the merger had not taken place. (c) The adjustment under subsection (b) must permit the new township to continue to: (1) include in the township's budget part of the budgeted amounts that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses that occurs because of the merger; and (2) impose part of a property tax levy that would otherwise be reduced by the department of local government finance on account of the realized savings or reduction in expenses that occurs because of the merger. (d) The additional amount that a political subdivision may continue to levy or include in the political subdivision's budget because of the adjustment under subsection (b) may not exceed the result of: (1) the savings or reduction in expenses realized in the first full year of operation after the merger is implemented, as determined by the department of local government finance; multiplied by (2) a percentage determined as follows: (A) Fifty percent (50%) in the first year of the adjustment. (B) Fifty percent (50%) in the second year of the adjustment. (C) Thirty percent (30%) in the third year of the adjustment. (D) Ten percent (10%) in the fourth year of the adjustment and thereafter. The fiscal body of the new township shall determine and certify to the department of local government finance the amount of the adjustment that the new township wishes to accept under this section.

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PUBLIC LAW 82 - SENATE ENROLLED ACT 325 - EFFECTIVE APRIL 28, 2011. LOCAL DEVELOPMENT AGREEMENTS.

Adds IC 4-33-23 concerning the Indiana Gaming Commission's regulation of local development agreements.

PUBLIC LAW 94 - SENATE ENROLLED ACT 6 – EFFECTIVE MAY 9, 2011. INTERSTATE MUTUAL AID AGREEMENTS

Adds IC 10-14-6.5 to provide in part in order to more adequately address emergencies that extend or exceed a jurisdiction's emergency response capabilities, either without rising to the level of a state or local declaration of a state of disaster or emergency, or in the initial stages of an event that may later become a declared state of disaster or emergency, the state (and any of its departments or agencies) or any political subdivision may enter into written mutual aid agreements with units of government from another state that provide for: (1) coordination of communications for; (2) training for; (3) response to; and (4) standby for; planned events and emergency responses between the units of government.

PUBLIC LAW 95 - SENATE ENROLLED ACT 39 – EFFECTIVE MAY 9, 2011. COMMISSION ON STATE TAX AND FINANCING POLICY.

Adds (b) The commission shall study the following: (1) How the Indiana income tax structure, including existing and potentially new income tax credits and deductions, may influence a senior's decision on residency in Indiana after retirement. (2) How each of the local option income taxes imposed under IC 6-3.5 affects the ability of political subdivisions to provide services to: (A) a facility that employs a significant number of individuals who reside outside the county in which the facility is located; and (B) the individuals who reside outside the county in which a facility described in clause (A) is located and commute to a job at that facility. (3) Whether counties and other political subdivisions should be provided additional financing options for providing services to the facilities and individuals described in subdivision (2). (4) How local option income taxes should be distributed within a county to local units of government.

PUBLIC LAW 102 - SENATE ENROLLED ACT 217 - EFFECTIVE JULY 1, 2011. OFFICIAL MISCONDUCT

Amends IC 35-44-1-2 to provide, A public servant who knowingly or intentionally: (1) commits an offense in the performance of the public servant's official duties; (2) solicits, accepts, or agrees to accept from an appointee or employee any property other than what the public servant is authorized by law to accept as a condition of continued employment; (3) acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated; or (4) fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies; commits official misconduct, a Class D felony.

PUBLIC LAW 104 - SENATE ENROLLED ACT 340 – EFFECTIVE JULY 1, 2011. CHARITY GAMING. Establishes the Charity Gaming Study Communities and makes various changes to the Charity Gaming Laws.

PUBLIC LAW 105 – SENTATE ENROLLED ACT 347 – EFFECTIVE JULY 1, 2011. UNDERGROUND STORAGE TANKS. Requires an underground storage tank operator training program.

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PUBLIC LAW 107 - SENATE ENROLLED ACT 464 - EFFECTIVE JULY 1, 2011. DEPOSITS AND CHECKS.

Adds IC 5-13-4-21.3 to provide "Public servant" has the meaning set forth in IC 35-41-1-24.

Amends IC 5-13-14-2 to provide a public servant is not liable for loss of public funds in any closed depository if the funds have been deposited in the manner required by this article.

Amends IC 5-13-14-3 to provide a public servant who knowingly or intentionally: (1) fails to deposit public funds; or (2) deposits or draws any check or negotiable order of withdrawal against the funds; except in the manner prescribed in this article, commits a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750), and a Class C felony if the amount involved is at least fifty thousand dollars (\$50,000). The public servant also is liable upon the public servant's official bond for any loss or damage that may accrue.

Amends IC 5-13-14-4 A public servant who knowingly or intentionally fails to perform any duty imposed upon the public servant by this article, other than a duty for which a penalty is imposed by section 3 of this chapter, commits a Class B misdemeanor.

PUBLIC LAW 110 - SENATE ENROLLED ACT 559 - EFFECTIVE JULY 1, 2011. CONFLICT OF INTEREST.

Amends IC 35-44-1-3 to provide (a) The following definitions apply throughout this section: (1) "Dependent" means any of the following: (A) The spouse of a public servant. (B) A child, stepchild, or adoptee (as defined in IC 31-9-2-2) of a public servant who is: (i) unemancipated; and (ii) less than eighteen (18) years of age. (C) An individual more than one-half (1/2) of whose support is provided during a year by the public servant. (2) "Governmental entity served by the public servant" means the immediate governmental entity being served by a public servant. (3) "Pecuniary interest" means an interest in a contract or purchase if the contract or purchase will result or is intended to result in an ascertainable increase in the income or net worth of: (A) the public servant; or (B) a dependent of the public servant who: (i) is under the direct or indirect administrative control of the public servant; or (ii) receives a contract or purchase order that is reviewed, approved, or directly or indirectly administered by the public servant. (b) A public servant who knowingly or intentionally: (1) has a pecuniary interest in; or (2) derives a profit from; a contract or purchase connected with an action by the governmental entity served by the public servant commits conflict of interest, a Class D felony. (c) It is not an offense under this section if: (1) The public servant or the public servant's dependent receives compensation through salary or an employment contract for: (A) services provided as a public servant; or (B) expenses incurred by the public servant as provided by law. (2) The public servant's interest in the contract or purchase and all other contracts and purchases made by the governmental entity during the twelve (12) months before the date of the contract or purchase was two hundred fifty dollars (\$250) or less. (3) The contract or purchase involves utility services from a utility whose rate structure is regulated by the state or federal government. (4) The public servant: (A) acts in only an advisory capacity for a state supported college or university; and (B) does not have authority to act on behalf of the college or university in a matter involving a contract or purchase. (5) A public servant under the jurisdiction of the state ethics commission (as provided in IC 4-2-6-2.5) obtains from the state ethics commission, following full and truthful disclosure, written approval that the public servant will not or does not have a conflict of interest in connection with the contract or purchase under IC 4-2-6 and this section. The approval required under this subdivision must be: (A) granted to the public servant before action is taken in connection with the contract or purchase by the governmental entity served; or (B) sought by the public servant as soon after the contract or purchase as the public servant becomes aware of the facts that give rise to a question of

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PUBLIC LAW 110 - SENATE ENROLLED ACT 559 - EFFECTIVE JULY 1, 2011. CONFLICT OF INTEREST. (Continued)

conflict of interest. (6) A public servant who makes a disclosure that meets the requirements of subsection (d) or (e) and is: (A) not a member or on the staff of the governing body empowered to contract or purchase on behalf of the governmental entity, and functions and performs duties for the governmental entity unrelated to the contract or purchase; (B) appointed by an elected public servant; (C) employed by the governing body of a school corporation and the contract or purchase involves the employment of a dependent or the payment of fees to a dependent; (D) elected; or (E) a member of, or a person appointed by, the board of trustees of a state supported college or university. (7) The public servant is a member of the governing board of a hospital organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1. (d) A disclosure must: (1) be in writing; (2) describe the contract or purchase to be made by the governmental entity; (3) describe the pecuniary interest that the public servant has in the contract or purchase; (4) be affirmed under penalty of perjury; (5) be submitted to the governmental entity and be accepted by the governmental entity in a public meeting of the governmental entity before final action on the contract or purchase; (6) be filed within fifteen (15) days after final action on the contract or purchase with: (A) the state board of accounts; and (B) if the governmental entity is a governmental entity other than the state or a state supported college or university, the clerk of the circuit court in the county where the governmental entity takes final action on the contract or purchase; and (7) contain, if the public servant is appointed, the written approval of the elected public servant (if any) or the board of trustees of a state supported college or university (if any) that appointed the public servant. (e) This subsection applies only to a person who is a member of, or a person appointed by, the board of trustees of a state supported college or university. A person to whom this subsection applies complies with the disclosure requirements of this chapter with respect to the person's pecuniary interest in a particular type of contract or purchase which is made on a regular basis from a particular vendor if the individual files with the state board of accounts and the board of trustees a statement of pecuniary interest in that particular type of contract or purchase made with that particular vendor. The statement required by this subsection must be made on an annual basis.

PUBLIC LAW 117 - HOUSE ENROLLED ACT 1025 - EFFECTIVE JULY 1, 2011. OFFICIAL BONDS AND INTERNAL CONTROL SYSTEMS.

Bonds

Amends IC 5-4-1-18 to provide in part (c) Except as provided in subsections (h) and (i), the fiscal bodies of the respective units shall fix the amount of the bond of . . . township trustees . . . as follows: (1) The amount must equal thirty thousand dollars (\$30,000) for each one million dollars (\$1,000,000) of receipts of the officer's office during the last complete fiscal year before the purchase of the bond, subject to subdivision (2). (2) The amount may not be less than thirty thousand dollars (\$30,000) nor more than three hundred thousand dollars (\$300,000) unless the fiscal body approves a greater amount for the officer or employee. County auditors shall file bonds in of not less than thirty thousand dollars (\$30,000), as fixed by the fiscal body of the county. The amount of the bond of any other person required to file an individual bond shall be fixed by the fiscal body of the unit at not less than fifteen thousand dollars (\$15,000). . . . (k) Both of the following apply to a bond or crime insurance policy that is filed to comply with this section: (1) Unless the bond or policy is canceled, the bond or policy must continue in force for

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PUBLIC LAW 117 - HOUSE ENROLLED ACT 1025 - EFFECTIVE JULY 1, 2011. OFFICIAL BONDS AND INTERNAL CONTROL SYSTEMS. (Continued)

Bonds

the term of office of the individual who files the bond or policy. (2) The aggregate liability of the surety or insurer is the amount specified in the bond or policy.

Amends IC 36-8-7-7 concerning Fire Pension Secretary bonding.

Internal Controls

Adds IC 5-11-1-27 to provide as used in this section, "local government" means county, city, town, or township. (b) In the compliance guidelines authorized under section 24 of this chapter, the state board of accounts shall define the acceptable minimum level of: (1) internal control standards; and (2) internal control procedures; for internal control systems of local governments. The internal control standards and procedures shall be developed to promote government accountability and transparency. (c) All erroneous or irregular variances, losses, shortages, or thefts of local government funds or property shall be reported immediately to the state board of accounts. The state board of accounts shall: (1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials; (2) determine the internal control weakness that contributed to or caused the condition; and (3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing: (A) the method of correcting the condition; and (B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition. (d) The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the state board of accounts under subsection (c)(3)(B).

PUBLIC LAW 122 - HOUSE ENROLLED ACT 1183 - EFFECTIVE JULY 1, 2011. PRICE PREFERENCES.

Adds IC 5-22-15-23.5 (a) A governmental body may give up to a ten percent (10%) price preference for agricultural products grown, produced, or processed in Indiana. (b) A governmental body may adopt rules to establish criteria to carry out this section.

PUBLIC LAW 124 - HOUSE ENROLLED ACT 1288 - EFFECTIVE VARIOUS DATES. PROPERTY TAXES.

Amends IC 6-1.1-18.5-1 concerning a civil taxing unit's maximum permissible property tax levy.

PUBLIC LAW 139 - SENATE ENROLLED ACT 60 - EFFECTIVE JULY 1, 2011. PUBLIC WORK BIDS.

Amends IC 36-1-12-4 to provide in part: (7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before. Notwithstanding any other law, bids may be opened after the time designated if both of the following apply: (A) The board makes a written determination that it is in the best interest of the board to delay the opening. (B) The day, time, and place of the rescheduled opening are announced at the day, time, and place of the originally scheduled opening.

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PUBLIC LAW 147 - SENATE ENROLLED ACT 205 - EFFECTIVE MAY 10, 2011. PUBLIC DEPOSITORIES. Similar changes to **PUBLIC LAW 202 - HOUSE ENROLLED ACT 1297.**

PUBLIC LAW 157 – SENATE ENROLLED ACT 381 – EFFECTIVE JULY 1, 2011. ASSESSMENT APPEALS. Provides certain local officials may not participate as representatives in tax appeals under certain circumstances.

PUBLIC LAW 166 - SENATE ENROLLED ACT 533 - EFFECTIVE JULY 1, 2011 DESIGN BUILD PUBLIC WORKS

Amends various chapters and sections of IC 5-30 concerning design build public works including IC 5-30-5-1 to provide in part (a) Except as provided in subsection (c), when design-build contracting is used for a public project, a public agency shall publish a notice of a request for qualifications under IC 5-3-1. The notice must allow at least fourteen (14) days for potential design-builders to respond to the request for qualifications. (b) Subsection (c) applies to a public project for which a public agency uses design-build contracting if: (1) the public agency is a state educational institution; or (2) the public agency is not a state educational institution and the preliminary estimated cost of the public project does not exceed five million dollars (\$5,000,000). (c) A public agency that undertakes a public project to which this subsection applies may publish a notice of a combined request for qualifications and proposals under IC 5-3-1 that includes: (1) the information otherwise required by this chapter; and (2) a request for proposals as otherwise provided under IC 5-30-6. The notice must allow at least thirty (30) days for potential design-builders to respond to the combined request for qualifications and proposals.

Also amends IC 5-30-6-1 to provide (a) If a separate notice of request for qualifications is issued under IC 5-30-5-1(a), the public agency shall issue a request for proposals to the potential design-builders selected under IC 5-30-5-6. (b) Each request for proposals must contain a design criteria package. (c) If a public project is a controlled project (as defined in IC 6-1.1-20-1.1) for which a referendum is to be held, a request for proposals may not be issued until after the public agency proposing the controlled project has completed the procedures described in IC 6-1.1-20-3.6.

PUBLIC LAW 168 - SENATE ENROLLED ACT 576 – EFFECTIVE JULY 1, 2011. WORKERS COMPENSATION. Adds and makes several changes to IC 22-3 regarding the worker's compensation laws. Increases civil penalties for failure to post notices, file certain records, and failure to provide proof of coverage. Increases criminal penalties for an employer's failure to insure or provide adequate security for the employer's worker's compensation and occupational disease liabilities.

PUBLIC LAW 171 - SENATE ENROLLED ACT 590 - EFFECTIVE JULY 1, 2011. RESTRICTIONS ON PUBLIC BENEFITS TO ILLEGAL ALIENS.

Adds IC 12-32-1-5 to provide in part (a) Notwithstanding any other provision of law and except as otherwise provided under federal law, an agency or a political subdivision shall verify, in the manner required under section 6 of this chapter, the eligibility of any individual who: (1) is at least eighteen (18) years of age; and (2) applies for state or local public benefits or federal public benefits that are provided

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PUBLIC LAW 171 - SENATE ENROLLED ACT 590 - EFFECTIVE JULY 1, 2011. RESTRICTIONS ON PUBLIC BENEFITS TO ILLEGAL ALIENS. (Continued)

by the agency or the political subdivision. IC 12-32-1-6 to provide An agency or a political subdivision required to verify the eligibility of an individual under section 5 of this chapter shall: (1) require the individual to execute a verification stating under penalty of perjury that the individual is a: (A) United States citizen; or (B) qualified alien (as defined under 8 U.S.C. 1641); and (2) maintain a verification executed in accordance with subdivision (1) for at least five (5) years. IC 12-32-1-9 to provide The state board of accounts: (1) shall adopt rules under IC 4-22-2, applicable to all political subdivisions, to carry out this chapter; and (2) may adopt a variation of the requirements set forth in this chapter, applicable to all political subdivisions, to provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose an unusual hardship on a legal resident of Indiana. The State Board of Accounts anticipates creating a form for compliance.

PUBLIC LAW 172 - HOUSE ENROLLED ACT 1004 - EFFECTIVE VARIOUS DATES. ANNUAL REPORTS, PUBLIC WORK AND LOCAL GOVERNMENTS MATTERS.

Annual Reports

Amends IC 5-11-1-4 to provide in part: (b) The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation for a political subdivision until the political subdivision files an annual report under subsection (a) for the preceding calendar year. Provides a similar change to IC 5-11-13-1 (b).

Adds IC 6-1.1-17-16.2 to provide the department of local government finance may not approve the budget of a taxing unit or a supplemental appropriation for a taxing unit until the taxing unit files an annual report under IC 5-11-1-4 or IC 5-11-13 for the preceding calendar year, unless the taxing unit did not exist as of March 1 of the calendar year preceding the ensuing calendar year by two (2) years. This section applies to a taxing unit that is the successor to another taxing unit or the result of a consolidation or merger of more than one (1) taxing unit, if an annual report under IC 5-11-1-4 or IC 5-11-13 has not been filed for each predecessor taxing unit.

Nonprofit Audits

Amends IC 5-11-1-9 to raise the maximum amount of public funds that a nonprofit corporation may spend and be subject only to a limited audit of the expenditures of the public funds from \$100,000 to \$200,000.

Public Work

Amends IC 5-11-1-26 to provide in part (b) If a municipality or a county performs a public work by means of its own workforce under IC 36-1-12-3, the state board of accounts shall include the following in each examination report concerning the municipality or county: (1) An opinion concerning whether the municipality or county has complied with IC 36-1-12-3 for each public work performed by the entity's own workforce. (2) A brief description of each public work that the municipality or county has performed with its own workforce under IC 36-1-12-3, including a calculation of the actual cost of each public work under IC 36-1-12-3. (3) An opinion concerning whether the municipality or county has complied with IC 36-1-12-19 in calculating the actual costs of a public work project performed under IC 36-1-12-3.

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PUBLIC LAW 172 - HOUSE ENROLLED ACT 1004 - EFFECTIVE VARIOUS DATES. ANNUAL REPORTS, PUBLIC WORK AND LOCAL GOVERNMENTS MATTERS. (Continued)

100-R

Amends IC 5-11-13-1 concerning the Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form IOOR), to provide in part (b) The department of local government finance may not approve the budget of a county, city, town, or township or a supplemental appropriation for a county, city, town, or township until the county, city, town, or township files an annual report under subsection (a) for the preceding calendar year.

Transparencies

Adds IC 5-14-3.8 concerning access to Financial Data for Local Units.

Purchases Preferences

Adds IC 5-22-15-20.9 to provide in part (a) This section applies only to a contract awarded by a political subdivision. . . . (d) There are the following price preferences for supplies purchased from a local Indiana business: (1) Five percent (5%) for a purchase expected by the purchasing agency to be less than fifty thousand dollars (\$50,000). (2) Three percent (3%) for a purchase expected by the purchasing agency to be at least fifty thousand dollars (\$50,000) but less than one hundred thousand dollars (\$100,000). (3) One percent (1%) for a purchase expected by the purchasing agency to be at least one hundred thousand dollars (\$100,000). (e) Notwithstanding subsection (d), a purchasing agency may award a contract to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if the lowest responsive and responsible offeror is a local Indiana business. (f) A business that wants to claim a preference provided under this section must do all the following: (1) State in the business's bid that the business claims the preference provided by this section. (2) Provide the following

Purchases Preferences (Continued)

information to the purchasing agency: (A) The location of the business's principal place of business. If the business claims the preference as a local Indiana business described in subsection (c)(1), a statement explaining the reasons the business considers the location named as the business's principal place of business. (B) The amount of the business's total payroll and the amount of the business's payroll paid to residents of affected counties. (C) The number of the business's employees and the number of the business's employees who are residents of affected counties. (D) If the business claims the preference as a local Indiana business described in subsection (c)(4), a description of the capital investments made in the affected counties and a statement of the amount of those capital investments. (E) If the business claims the preference as a local Indiana business described in subsection (c)(5), a description of the substantial positive economic impact the business has on the affected counties.

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PUBLIC LAW 172 - HOUSE ENROLLED ACT 1004 - EFFECTIVE VARIOUS DATES. ANNUAL REPORTS, PUBLIC WORK AND LOCAL GOVERNMENTS MATTERS. (Continued)

Public Work

Amends IC 36-1-12-3 to provide in part (a) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a contract whenever the cost of that public work project is estimated to be less than one hundred fifty thousand dollars (\$150,000 . . . (b) This subsection applies only to a municipality or a county. The workforce of a municipality or county may perform a public work described in subsection (a) only if: (1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and (2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the board: (A) publishes a notice under IC 5-3-1 that: (i) describes the public work that the board intends to perform with its own workforce; and (ii) sets forth the projected cost of each component of the public work as described in subsection (a); and (B) determines at a public meeting that it is in the public interest to perform the public work with the board's own workforce. A public work project performed by a board's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

Amends IC 36-1-12-4 to provide in part (a) This section applies whenever the cost of a public work project will be: (1) except as provided in subdivision (2), at least one hundred fifty thousand dollars (\$150,000).

Amends IC 36-1-12-4.7 to provide in part (a) This section applies whenever a public work project is estimated to cost : (1) except as provided in subdivision (2), at least fifty thousand dollars (\$50,000) and less than one hundred fifty thousand dollars (\$150,000); . . . (b) The board must proceed under the following provisions: (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes. (2) The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before. (3) Except as permitted in section 22 of this chapter after June 30, 2011, the board shall award the contract for the public work to the lowest responsible and responsive quoter. (4) The board may reject all quotes submitted.

Adds IC 36-1-12-22 (a) The definitions in IC 5-22-15, including the definitions in IC 5-22-15-20.9, apply in this section. (b) The procedures described in IC 5-22-15 for determining adjusted offers, price preference percentage, and total adjusted offers apply in this section. (c) The price preferences stated in IC 5-22-15-20.9 apply in this section. (d) Notwithstanding provisions of this chapter that require the award of a contract to the lowest responsive and responsible bidder or the lowest responsive and responsible quoter, but subject to subsection (e), a contract shall be awarded to the lowest responsive and responsible local Indiana business that claims the preference provided by this section. (e) Notwithstanding subsection (d), a contract shall be awarded to the lowest responsive and responsible bidder or quoter, regardless of the preference provided in this section, if the lowest responsive and responsible bidder or quoter is a local Indiana business. (f) A bidder or quoter that wants to claim the preference under this section must claim the preference in the same manner that a business claims the preference under IC 5-22-15-20.9(f).

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PUBLIC LAW 172 - HOUSE ENROLLED ACT 1004 - EFFECTIVE VARIOUS DATES. ANNUAL REPORTS, PUBLIC WORK AND LOCAL GOVERNMENTS MATTERS. (Continued)

Fire Protection Territory

Adds IC 36-8-19-6.3 A member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to become a party to an agreement to join or establish a fire protection territory if that member is also an employee of: (1) another unit that is a participating unit in the fire protection territory; or (2) another unit that is proposing to become a participating unit in the fire protection territory.

Adds SECTION 163 [EFFECTIVE UPON PASSAGE] (a) In addition to any other requirements under IC 36-8-19-6(a), before the legislative body of a unit that desires to become part of a fire protection territory may adopt an ordinance or a resolution to form a territory, the legislative body of the unit must (notwithstanding IC 36-8-19-6(a)) do the following: (1) Hold a public hearing at least thirty (30) days before adopting an ordinance or a resolution to form a territory at which the legislative body makes available to the public the following information: (A) The property tax levy, property tax rate, and budget to be imposed or adopted during the first year of the territory for each of the units that would participate in the proposed fire protection territory. (B) The estimated effect of the proposed reorganization in the following years on taxpayers in each of the units that would participate in the proposed fire protection territory, including the expected property tax rates, property tax levies, expenditure levels, service levels, and annual debt service payments. (C) The estimated effect of the proposed reorganization to other units in the county in the following years and to local option income taxes, excise taxes, and property tax circuit breaker credits. (D) A description of the planned services and staffing levels to be provided in the proposed fire protection territory. (E) A description of any capital improvements to be provided in the proposed fire protection territory. (2) Hold at least one (1) additional public hearing before adopting an ordinance or a resolution to form a territory to receive public comment on the proposed ordinance or resolution. The legislative body must give notice of the hearings under IC 5-3-1. (b) In addition to the information required by IC 36-8-19-6(b), the notice required under that section must include the proposed levies and tax rates for each participating unit. (c) This SECTION expires June 30, 2012.

LOIT – PUBLIC SAFETY

Amends IC 6-3.5-1.1-25 to add (l) A fire department, volunteer fire department, or emergency medical services provider that: (1) provides fire protection or emergency medical services within the county; and (2) is operated by or serves a political subdivision that is not otherwise entitled to receive a distribution of tax revenue under this section; may before July 1 of a year apply to the county council for a distribution of tax revenue under this section during the following calendar year. The county council shall review an application submitted under this subsection and may before September 1 of a year adopt a resolution requiring that one (1) or more of the applicants shall receive a specified amount of the tax revenue to be distributed under this section during the following calendar year. A resolution approved under this subsection providing for a distribution to one (1) or more fire departments, volunteer fire departments, or emergency medical services providers applies only to distributions in the following calendar year. Any amount of tax revenue distributed under this subsection to a fire department, volunteer fire department, or emergency medical services provider shall be distributed before the remainder of the tax revenue is distributed under subsection (f).

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PUBLIC LAW 172 - HOUSE ENROLLED ACT 1004 - EFFECTIVE VARIOUS DATES. ANNUAL REPORTS, PUBLIC WORK AND LOCAL GOVERNMENTS MATTERS. (Continued)

Levies

Adds SECTION 173. [EFFECTIVE JULY 1, 2011] (a) The department of local government finance may adjust a civil taxing unit's maximum permissible ad valorem property tax levy determined under IC 6-1.1-18.5-3, as amended by this act, for property taxes first due and payable in 2012, if the department of local government finance determines that the civil taxing unit's maximum permissible ad valorem property tax levy was reduced as a direct result of the amendment of IC 6-1.1-18.5-3 by this act. The amount of the adjustment may not exceed the greater of zero (0) or the difference between the civil taxing unit's maximum permissible ad valorem property tax levy, as determined without applying the amendment made to IC 6-1.1-18.5-3 by this act, and the civil taxing unit's maximum permissible ad valorem property tax levy, as determined after applying the amendment made to IC 6-1.1-18.5-3 by this act. An adjustment under this SECTION shall be treated as a permanent adjustment in the civil taxing unit's maximum permissible ad valorem property tax levy. (b) The department of local government finance may make an adjustment under subsection (a) on its own motion or on appeal by the civil taxing unit. A civil taxing unit may appeal for an adjustment under this SECTION in the same manner as an appeal under IC 6-1.1-18.5-12. (c) This SECTION expires January 1, 2013.

PUBLIC LAW 177 - HOUSE ENROLLED ACT 1048 - EFFECTIVE MAY 10, 2011. PUBLIC PENSION FUNDS.

Amends IC 36-8 concerning deferred retirement option plans.

PUBLIC LAW 185 – HOUSE ENROLLED ACT 1129 – EFFECTIVE JULY 1, 2011. TEXT MESSAGING WHILE DRIVING.

Adds IC 9-13-2-177.4, IC 9-21-8-0.5 and IC 9-21-8-59 and amends IC 9-13-2-177.3. IC 9-21-8-59 provides in part A person may not use a telecommunications device to: (1) type a text message or an electronic mail message; (2) transmit a text message or an electronic mail message; or (3) read a text message or an electronic mail message; while operating a moving motor vehicle unless the device is used in conjunction with hands free or voice operated technology, or unless the device is used to call 911 to report a bona fide emergency.

PUBLIC LAW 188 - HOUSE ENROLLED ACT 1174 - EFFECTIVE JULY 1, 2011. SALE OF REAL PROPERTY.

Amends IC 36-1-11-4 to eliminate in part (b) the requirement concerning a joint appraisal of the property.

Also amends various sections to provide (f) The disposing agent may, before expiration of the time set out in the notice, sell the property to the highest and best bidder. The highest and best bidder must have complied with any requirement under subsection (c)(4). However, the disposing agent may sell the property for less than ninety percent (90%) of the average of the two (2) appraisals of the tracts only after an additional notice stating the amount of the bid to be accepted is published in accordance with IC 5-3-1. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected. (g) If the disposing

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PUBLIC LAW 188 - HOUSE ENROLLED ACT 1174 - EFFECTIVE JULY 1, 2011. SALE OF REAL PROPERTY. (Continued)

agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so and pay the broker or auctioneer a reasonable compensation out of the gross proceeds of the sale. A disposing agent may hire a broker to sell real property directly rather than using the bid process under subsections (c) through (f) if: (1) the disposing agent publishes a notice of the determination to hire the broker in accordance with IC 5-3-1; and (2) the property has been up for bid for at least sixty (60) days before the broker is hired, and either no bids were received or the disposing agent has rejected all bids that were received. The disposing agent may hire one (1) of the appraisers as the broker or auctioneer. (h) The following apply if a broker is hired under subsection (g): (1) The property may not be sold to a person who is ineligible under section 16 of this chapter. (2) If the property is sold to a trust (as defined in IC 30-4-1-1(a)), the following information must be placed in the public record relating to the sale: (A) Each beneficiary of the trust. (B) Each settlor empowered to revoke or modify the trust.

Also amends IC 36-1-11-4.2 concerning a disposing agent who wants to sell or transfer real property not acquired through eminent domain procedures.

Adds IC 36-1-11-4.3 Notwithstanding any provision of this chapter, a sale or transfer under this chapter of property constituting a public easement or right of way does not deprive a public utility of the use of all or part of the public easement or right of way that is sold or transferred if, at the time of the sale or transfer, the public utility is occupying and using all or part of that public easement or right of way for the location and operation of its facilities.

Amends IC 36-1-11-5 concerning procedures to sell property to an abutting landowner also apply to property that has not been assessed and was previously part of a public right-of-way.

Amends IC 36-1-11-10 in part: (c) The disposing agent shall receive bids in the manner prescribed in section 4 of this chapter and lease the property to the highest and best bidder. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected . . . (g) The disposing agent may lease the real property under this section for a value that is less than ninety percent (90%) of the appraised fair market rental value as determined by the average of the two (2) appraisals under section 4(b) of this chapter only after publishing an additional notice in accordance with IC 5-3-1, stating the amount of the bid to be accepted. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

PUBLIC LAW 192 - HOUSE ENROLLED ACT 1203 - EFFECTIVE JULY 1, 2011. EMPLOYEE REPRESENTATION CAMPAIGNS.

Adds IC 22-6-5 (a) This chapter applies to any election that is required or permitted by Indiana or federal law for the designation, authorization, or retention of employee representation. (b) This chapter does not apply to the extent that it conflicts with: (1) the federal National Labor Relations Act (20 U.S.C. 151 et seq.); or (2) another federal law or regulation concerning labor relations or labor organizations. The right of any individual to vote by secret ballot in an election is guaranteed. The right of any employer to engage in a campaign in connection with an election is guaranteed. The results of an election that violates this chapter are void.

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PUBLIC LAW 195 - HOUSE ENROLLED ACT 1216 - EFFECTIVE JULY 1, 2011. PUBLIC WORK PROJECTS COMMON CONSTRUCTION.

Amends IC 5-16-7-1 to provide in part (m) Notwithstanding any other law, this chapter does not apply to projects in which the actual construction costs are less than the following: (1) For contracts awarded after December 31, 2011, and before January 1, 2013, two hundred fifty thousand dollars (\$250,000). (2) For contracts awarded after December 31, 2012, three hundred fifty thousand dollars (\$350,000).

Also adds IC 5-16-7-6 to provide (a) A public work project may not be artificially divided into two (2) or more projects to avoid the application of this chapter. (b) A bidder, quoter, or other person who is a party to a public work contract who knowingly violates this section commits a Class A infraction and may not be a party to, or benefit from, a public work contract for two (2) years after the date of the adjudication. (c) An officer or employee of the state or a municipal corporation who knowingly violates this section commits a Class A infraction.

PUBLIC LAW 198 - HOUSE ENROLLED ACT 1238 - EFFECTIVE VARIOUS DATES. ADVOCACY WITH PUBLIC FUNDS.

Amends IC 6-1.1-20-3.1 to provide in part (c) This subsection applies only to a political subdivision that, after April 30, 2011, adopts an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease subject to this section and section 3.2 of this chapter. A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.2 of this chapter.

Adds and amends IC 6-1.1-20 concerning ballot language.

Makes various changes to IC 6-1.1-20 concerning advocacy on referendums.

PUBLIC LAW 202 - HOUSE ENROLLED ACT 1297 - EFFECTIVE MAY 10, 2011. PUBLIC DEPOSITORIES.

Amends IC 5-13-9-8 to provide in part the service charge may be paid: (1) by direct charge to the deposit or other account; or (2) in a manner that subtracts the service charge from interest earned on the funds in the deposit or other account.

Amends IC 5-13-9.5-1 to provide in part: (c) A financial institution is ineligible to become a depository and receive public funds of the state if either of the following applies: (1) The institution fails to maintain a capital ratio in excess of the minimum required by the governmental supervisory body of the institution. However, the requirement set forth in this subdivision does not apply if the institution has fully collateralized the institution's public funds on deposit by pledging and delivering acceptable collateral to the board for depositories, or to the board's agent, in accordance with IC 5-13-13 and with any applicable rules of the board.

Amends IC 5-13-11-3 to provide in part the contract may provide for the depository to assess a service charge for its management of the investment cash management system. The service charge may be paid: (1) by direct charge to the deposit or other account; or (2) in a manner that subtracts the service charge from interest earned on the funds in the deposit or other account.

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PUBLIC LAW 208 - HOUSE ENROLLED ACT 1365 - EFFECTIVE JULY 1, 2011. VOLUNTEER FIRE DEPARTMENTS.

Amends IC 36-8-12-13 to provide in part (a) Except as provided in subsection (b), the volunteer fire department that responds first to an incident may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in IC 13-11-2-191(e)) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)): (1) that is responded to by the volunteer fire department; and (2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up. A second or subsequently responding volunteer fire department may not impose a charge on an owner or responsible party under this section, although it may be entitled to reimbursement from the first responding volunteer fire department in accordance with an interlocal or other agreement. (b) A volunteer fire department that is funded, in whole or in part: (1) by taxes imposed by a unit; or (2) by a contract with a unit; may not impose a charge under subsection (a) on a natural person who resides or pays property taxes within the boundaries of the unit described in subdivision (1) or (2), unless the spill or the chemical or hazardous material fire poses an imminent threat to persons or property. . . (g) The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a) and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

Also amends IC 36-8-12-16 to provide in part (a). (3) The bill for payment of the service charge: (A) is submitted to the property owner in writing within thirty (30) days after the services are provided; (B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report; (C) must contain verification that the bill has been approved by the chief of the volunteer fire department; and (D) must contain language indicating that correspondence from the property owner and any question from the property owner regarding the bill should be directed to the department. . . . (i) The volunteer fire department or its agent may maintain a civil action to recover an unpaid service charge under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

Also amends IC 36-8-12-17 to provide in part (g) The volunteer fire department may maintain a civil action to recover unpaid false alarm service charges imposed under this section and may, if it prevails, recover all costs of the action, including reasonable attorney's fees.

PUBLIC LAW 211 - HOUSE ENROLLED ACT 1538 - EFFECTIVE JULY 1, 2011. MINIMUM WAGE REQUIRED BY LOCAL UNITS.

Adds IC 22-2-2-10.5 (a) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23. (b) Unless federal or state law provides otherwise, a unit may not: (1) establish; (2) mandate; or (3) otherwise require; a minimum wage that exceeds the minimum wage required by section 4 of this chapter or by the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1). (c) This section does not limit the authority of a unit to establish wage rates in a contract to which the unit is a party.

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PUBLIC LAW 218 - SENATE ENROLLED ACT 388 - EFFECTIVE JULY 1, 2011. SWAP AGREEMENTS.

Adds IC 5-1-14-17.2 concerning Swap agreements with certain requirements. IC 8-9.5-9-4 defines "Swap agreement"

Amends IC 5-1-14-1.3 to provide in part: (3) "Swap agreement" has the meaning set forth in IC 8-9.5-9-4, except that the term includes a swap agreement entered into by an issuing body (as defined in section 17.2(b) of this chapter) only if any part of the payments owed by the issuing body under the agreement, including any termination or settlement payments, is payable out of: (A) tax revenues; or (B) a special assessment. Provides in part IC 5-1-14-17.2 c) This section provides restrictions on any issuing body entering into a swap agreement and does not authorize an issuing body to enter into a swap agreement separate from any other authority the issuing body has for entering into a swap agreement. (d) For an issuing body that is authorized by another law to enter into swap agreements, the issuing body: (1) may enter into a swap agreement only in connection with the financing activities of the issuing body as provided in this section; and (2) may not enter into a swap agreement as an investment.

PUBLIC LAW 229 - HOUSE ENROLLED ACT 1001 - EFFECTIVE VARIOUS DATES. 1001. STATE BUDGET BILL.

State Civil Service

Adds IC 4-15-2.2-50 concerning the State Civil Service System to provide in part: The director may enter into an agreement with a political subdivision (as defined in IC 36-1-2-13) to furnish services related to or involving the administration of the political subdivision's personnel system. The agreement must provide for the reimbursement to the state of the reasonable cost, as determined by the director, of the services and facilities furnished. All political subdivisions are authorized to enter into such agreements.