

# CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES  
ISSUED BY STATE BOARD OF ACCOUNTS

JUNE 2018

PAGE 1

## IN THIS ISSUE

<u>ARTICLE</u>	<u>PAGE</u>
June Training School	2
Memorandums Issued	2
2018 Laws Affecting Cities and Towns	3 - 18
Statement of Engagement Cost	18
Investments	19 - 20
Garbage Collection and Disposal	21 - 22
Retainage on Public Contracts in Excess of \$200,000	22 - 23
Bond or Certified Check – Filing by Bidders	24
Public Purchases Law – Overview	25 - 28
Memorial Day Expenses	28
Veterans Memorials	28
Compensation of City Appointive Officers and Employees	28
Compensation of Elected City and Town Officers	28
Establishing the Estimated Cost of Capital Assets	29
Questions and Answers from Annual Conference	30 - 32
Attachments	
Memo Court Costs/Fee Changes	33 – 35
Government Officials – Gateway Applications	36 - 37

**JUNE TRAINING SCHOOL**

The State Board of Accounts extends its deepest appreciation to the officers and committees of the Indiana League of Municipal Clerks and Treasurers (League) for making the arrangements and to Accelerate Indiana Municipalities (AIM) for handling the registrations and providing space for our Resource Center at the recent school in South Bend. Please note that the League's Fall District meetings will again qualify as State-called meeting days. This year's meetings will be in Middlebury on October 18 and Lawrenceburg on October 24. Registration information will be sent out by the League for the District meetings.

**MEMORANDUMS ISSUED**

Attached at the end of this document is the State Board of Accounts memorandum dated June 26, 2018 regarding the Court Costs and Fee Changes effective July 1, 2018.

Attached at the end of this document is the State Board of Accounts memorandum dated June 12, 2018 regarding the Monthly and Annual Engagement Uploads.

The attached memorandums are incorporated into this issue of the Cities and Towns Bulletin and considered part of the Uniform Compliance Guidelines issued by the State Board of Accounts.

**2018 LAWS AFFECTING CITIES AND TOWNS**

The following list of laws enacted by the General Assembly is related to cities, towns, and municipally-owned utilities. This is not intended to be an expression of a legal opinion nor is it intended to provide a complete summary of every addition or amendment contained in the public law. 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 applicable references to the Indiana Code.

Additional information regarding the 2018 public laws may be found on the General Assembly website at [www.iga.in.gov](http://www.iga.in.gov). The "Session" tab contains a Table of Citations for all Indiana Code citations affected by new legislation, a complete Digest of Enactments summarizing each new public law, an Enrolled Act Summary showing the effective dates of each public law section, and other cross references between public law number and bill number. The "Legislation" tab contains each new public law.



**Public Law 8-2018 - SEA 100 - Carbon Monoxide Testing**

Adds IC 36-8-24 effective July 1, 2018. Carbon monoxide emissions testing. Provides that a fire department established by a city or town or a volunteer fire department may provide vehicular carbon monoxide testing (testing) to the owner of a motor vehicle. Requires testing to be offered to the owner of a motor vehicle without charge. Specifies the manner in which testing is to be conducted. Specifies certain paperwork and record keeping requirements. Provides that a test administrator's good faith effort to properly conduct a vehicular carbon monoxide test immunizes the test administrator from civil liability and all associated damages, including punitive damages, arising from or related to the administered test.

Provides that a fire department, volunteer fire department, or other person may not be found liable for any: (1) claim; (2) cause of action; (3) damages, including punitive damages; (4) demand; or (5) expense; arising from or related to an administered vehicular carbon monoxide test by reason of an agency relationship between the test administrator and the fire department, the volunteer fire department, or the other person.

**Public Law 24-2018 - HEA 1057 - Pretrial Diversion**

Amends IC 33-37-4-1 effective July 1, 2018. Provides that the initial user fee amount for a diversion agreement involving a misdemeanor is \$50. Provides that the initial user fee amount for a diversion agreement involving a felony is \$75. Allows a court to impose on a person an additional program fee or cost that is reasonably related to the person's rehabilitation. Prohibits a monthly user fee from being collected beyond the maximum length of a possible sentence. Makes conforming amendments.

**Public Law 37-2018 - HEA 1257 - State Use Program**

Amends IC 5-22-13 effective July 1, 2018. Changes references of "person with a severe disability" to "individual with a disability" in the public purchasing laws and the laws concerning the committee for the purchase of products and services of individuals with a disability (committee). Defines "individual with a disability". Amends the definition of "qualified agency". Provides that a governmental body's purchasing agent must determine if a product or service is within 10% of the fair market price...

**Public Law 43-2018 - SEA 27 - 1977 Fund New Unit Credits for Prior Service**

Amends IC 36-8-8-18 effective March 13, 2018. Provides, in the case of a city or town that begins participation in the 1977 police officers' and firefighters' pension and disability fund (1977 fund), that the unit and the member (firefighter, police officer, or emergency medical technician) may agree how to share the cost of acquiring credit in the 1977 fund for the member's prior service as a firefighter, police officer, or emergency medical technician. (The introduced version of this bill was prepared by the interim study committee on pension management oversight.)

**Public Law 47-2018 - SEA 99 - Civil Forfeitures**

Amends IC 34-24-1-2, IC 34-24-1-3, IC 34-24-1-4 effective July 1, 2018. Requires the prosecuting attorney to file an affidavit of probable cause with a court not later than seven days after property is seized, and provides for the return of the property to the owner if the court does not find probable cause. Establishes a procedure for an owner of real property or of a vehicle (if the owner was not operating the vehicle at the time of the seizure) to obtain provisional custody of the seized property pending a final forfeiture determination.

Makes the time limit for filing a forfeiture action: (1) 21 days, if the owner has filed a written demand for return of the property; or (2) 90 days, if the owner has not filed a written demand for return of the property. Provides that an owner whose property is returned is not liable for the costs of storage, transportation, or maintenance. Specifies how the proceeds of a forfeiture action are to be distributed. Requires a prosecuting attorney to report certain information concerning forfeitures to the prosecuting attorneys council. Imposes certain requirements on the use and compensation of outside counsel in forfeiture actions, and prohibits a prosecuting attorney or deputy prosecuting attorney from receiving a contingency fee for a forfeiture action.

**Public Law 61-2018 - SEA 386 - Financing Flood Control Improvements**

Adds 36-7-15.6 effective May 1, 2018. Authorizes the Indianapolis metropolitan development commission (commission), following a written recommendation from the board of public works and approval of the legislative body, to adopt an ordinance designating an area as a flood control improvement district (district) to capture incremental property tax revenue within the district to be used for the construction, replacement, repair, maintenance, or improvement of flood control works. Provides that only special flood hazard property may be included within the boundaries of a district. Defines "special flood hazard property" as property that on January 1, 2018, is situated in a special flood hazard area as designated by the Federal Emergency Management Agency.

Provides that a district may not include any property that is already included in a tax increment financing allocation area. Provides that, before making a recommendation to the commission to establish a district, a board of public works must: (1) establish the boundaries for the district; (2) identify the owners of each parcel of property in the district; (3) create a proposed plan for flood control works within the district; and (4) hold a public hearing on the proposed district. Provides that the fiscal officer of the county shall establish a flood control improvement fund (fund) for each district that is established within the county. Provides that the commission shall administer the fund. Provides that the incremental property tax revenue from a district shall be deposited in the fund and used only for providing flood control works within the boundaries of that district.

Provides that the commission may issue bonds payable from the fund for the purpose of construction, replacement, repair, maintenance, or improvement of flood control works. Specifies the types of costs for flood control works that may be funded from a bond issue including reimbursement to the county for expenditures made from the county's storm water fund for flood control works prior to the bond issuance. Provides that, in lieu of issuing bonds, the fiscal body of the county may adopt an ordinance to authorize money in a fund of a district to be applied to reimburse debt service payments made on bonds for which revenue from the county's storm water fund is pledged, if the bonds for which the reimbursements are made were issued solely for the purpose of construction, replacement, repair, maintenance, or improvement of flood control works that are located within the district for which the fund was established.

Allows the county to adopt an ordinance to continue distribution and allocation of property taxes after bond maturity, solely for the purpose of maintenance and repair of flood control works within the district for not more than 50 years. Requires a commission to make an annual report to the fiscal body of the county and submit a copy of the report to the department of local government finance.

**Public Law 66-2018 -HEA 1036 - Unemployment Insurance**

Amends IC 22-4-4-2, IC 22-4-13.3-4, IC 22-4-13.3-8 effective July 1, 2108. Excludes worker's compensation and occupational diseases compensation payments from the definition of "wages" for unemployment insurance purposes. Establishes a flat fee of \$12 as the employer's collection fee for withholding amounts from an individual's income to repay unemployment insurance benefit overpayments. Allows an individual to request a review by the commissioner of the department of workforce development or the commissioner's designee of an adverse decision following an administrative hearing in which the individual contests the income withholding.

**Public Law 72-2018 - HEA 1004 - Various State and Local Government Streamlining Matters**

Amends various sections of in the Indiana Code, including IC 36-1-12, IC 36-8-6, and IC 36-10-3 with various effective dates. Requires a meeting for receiving quotes must be open to the public. Provides that certain quotes shall be reported to the board during the public meeting at which the contract is considered. Specifies that an employee drug testing program must have been effective and applied at the time of the solicitation for bids for a public works project. Allows the board to keep on file a copy of the contractor's policy submitted in the current calendar year or previous two calendar years to satisfy the requirement for submitting a policy unless the policy has been revised...

IC 36-1-12-5. For public works projects costing less than \$50,000, "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 either of the following:

(A) 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. 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.

(B) Soliciting at least three (3) quotes by telephone, facsimile transmission, or electronic mail. The seven (7) day waiting period required by clause (A) does not apply to quotes solicited under this clause. A quote received under this clause shall be reported to the board during the public meeting at which the contract is considered. The name of each person submitting a quote, and the amount of each quote, shall be read aloud at the public meeting."

IC 36-1-12-24. For public works projects of at least \$150,000 awarded after June 30, 2016...

"(c) An employee drug testing program submitted to the board under this section must have been effective and applied at the time of the solicitation for bids.

(d) A contractor who has previously filed a copy of the contractor's employee drug testing program with the board in the current calendar year or within the previous two (2) calendar years satisfies the requirement for submitting an employee drug testing program, unless the employee drug testing program has been revised."

1925 Police Pension Board.

IC 36-8-6-3(f) has been amended to require the secretary and treasurer to make complete and accurate reports of their trusts to the local board before February 15 of each year, instead of requiring the report to be made on the first Monday in February.

IC 36-8-6-2 has been amended to state that "after the local board receives the report described in 3(f) of this chapter, the trustees...shall be elected at the next meeting..." Previous language required the election to be held on the second Monday in February.

**Public Law 72-2018 - HEA 1004 - Various State and Local Government Streamlining Matters - Continued**

IC 36-10-3-4. Municipal Park Board

Third Class Cities: Language has been removed which required no more than two members may be affiliated with the same political party.

Second Class Cities: "A city board consists of four (4) members to be appointed by the city executive. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than two (2) members may be affiliated with the same political party. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being: (1) either: (A) a member of the governing body of the school corporation selected by the governing body of the school corporation; or (B) an individual who resides in the school corporation, selected by the governing body of the school corporation; (2) a member of the governing body of the library district selected by that body; or (3) individuals described in both subdivisions (1) and (2).

**Public Law 73-2018 - HEA 1035 - Short Term Rentals**

Adds IC 36-1-24 effective July 1, 2018. Provides the following with regard to short term rentals that are rented through a short term rental platform: (1) Provides that a short term rental of an owner's primary residence is a permitted residential use under any applicable ordinance and may not be disallowed. (2) Provides that, in the case of residential property that is not the person's primary residence, a local unit of government (local unit): (A) may require a special exception, special use, or zoning variance for the short term rental of the property; and (B) may not interpret and enforce zoning regulations for a special exception, special use, or zoning variance in a manner that is intended or has the effect of prohibiting or unreasonably restricting all short term rentals of the property. (3) Allows a local unit to regulate short term rental of residential property only for specified purposes. (4) Allows a local unit to require an owner to obtain one permit for each property of an owner, regardless of the number of dwelling units or detached accessory structures on the property that the owner offers as a short term rental. (5) Allows a local unit to charge a fee of not more than \$150 for an initial permit and for a permit issued after the revocation of a permit, but prohibits a unit from charging a fee for a permit renewal. (6) Allows a local unit to limit or prohibit short term rentals located within a conservancy district.

Exempts ordinances adopted before January 1, 2018. Excludes property owners associations from the provisions of the bill.

**Public Law 74-2018 - HEA 1070 - Airport Boards**

Amends 8-22-2-7, IC 8-22-3-4.1, and IC 8-22-3-4.4 effective July 1, 2018. Provides that on July 1, 2018, the advisory member of the board of the Indianapolis Airport Authority representing Morgan County becomes a full voting member of the board. Increases from five members to six members the number of appointments made by the mayor of Indianapolis to the board of the Indianapolis airport authority.

**Public Law 74-2018 - HEA 1070 - Airport Boards - Continued**

Makes conforming changes. Makes the following changes with regard to the rotary fund of a board aviation commissioners (board): (1) Allows the rotary fund to be used for expenses incurred in operating a public fueling station (instead of only for fuel and oil purchases). (2) Allows the board to transfer funds throughout the fiscal year instead of only at the end of the fiscal year. (3) Specifies that an initial appropriation is made to fund the rotary fund and that additional appropriations to the fund are discretionary. (4) Requires the board to transfer any profits in the rotary fund at the end of the fiscal year to the aviation fund or a reserve or depreciation account for capital improvements and replacements, if the rotary fund balance (not including amounts transferred to the aviation fund or reserve or depreciation account during the fiscal year) exceeds 25% of the previous year's expenditure from the rotary fund. (Current law requires the board to transfer excess funds from the rotary fund to the aviation fund if the rotary fund balance exceeds 25% of the previous year's appropriation to the rotary fund.)

**Public Law 75-2018 - HEA 1140 - Interlocal Agreements**

Amends IC 33-35-1.1, IC 33-35-1-6, IC 33-35-2-3, and IC 33-36-3-7 effective July 1, 2018. Allows a county to enter into an interlocal agreement with a municipality to use: (1) a municipal ordinance violations bureau; or (2) a city or town court; to dispose of county ordinance violations."

**Public Law 86-2018 - Senate Enrolled Act (SEA) 6 - Technical Corrections**

Makes technical corrections; Various Effective Dates. Resolves technical conflicts and addresses technical problems in the Indiana Code. Provides that the technical corrections bill may be referred to as the "technical corrections bill of the 2018 general assembly". Specifies that this phrase may be used in the lead-in line of each SECTION of another bill to identify the provisions added, amended, or repealed by the technical corrections bill that are also amended or repealed in another bill being considered during the 2018 legislative session. Provides the publisher of the Indiana Code with guidance concerning resolution of amend/repeal conflicts between the technical corrections bill and other bills passed during the 2018 legislative session. Specifies that if there is a conflict between a provision in the technical corrections bill and a provision being repealed in another bill, the other bill's repealer is law. (The introduced version of this bill was prepared by the code revision commission.)

**Public Law 91-2018 - SEA 119 - 1977 Fund Purchase of Service**

Adds IC 36-8-8-8.6 effective July 1, 2018. 1977 fund purchase of service. Allows a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) to purchase service performed in Indiana as a full-time, fully paid police officer or firefighter for an employer that does not participate in the 1977 fund.



**Public Law 93-2018 - SEA 125 - Registration of Underground Utility Excavation Contractors**

Adds IC 8-1-26.5 effective July 1, 2018. Registration of underground utility excavation contractors. Provides that a contractor that will perform one or more excavations or demolitions in Indiana under a contract with: (1) a communications service provider; or (2) a utility; must include in an entity filing filed with the secretary of state a statement that the contractor and its employees will comply with Indiana's 811 statute.

Provides that a contractor that is a filing entity under the Uniform Business Organizations Code (Code) shall provide documentation of the contractor's compliance with the registration requirement to a communications service provider or a utility before entering into a contract with the communications service provider or the utility to perform excavations or demolitions in Indiana. Authorizes the utility regulatory commission (IURC) or its pipeline safety division to refer to the attorney general contractors that: (1) violate Indiana's 811 statute; and (2) are foreign entities not registered to do business in Indiana. Authorizes the attorney general to collect penalties of not more than \$10,000 for the registration violation, as provided for in the Code.

Provides that at the request of the IURC or its pipeline safety division, and not more than once per year, unless for purposes of an investigation under Indiana's 811 statute, a communications service provider or utility shall provide a list of its contractors operating in Indiana.

**Public Law 99-2018 - SEA 296 - Order to Repair Tax Sale Property**

Adds IC 6-1.1-23.9; Adds or Amends several sections of IC 6-1.1-24 effective July 1, 2018. Provides that an order for necessary repairs originally issued by an enforcement authority under the unsafe building law to the owner of a vacant or abandoned property that is later sold at a tax sale may subsequently be enforced against the successful bidder at the tax sale.

**Public Law 104-2018 - SEA 393 - Safety Notice of Advanced Structural Buildings**

Adds and Amends several chapters in IC 22-11 and IC 22-13 with various effective dates. Safety notice of advanced structural buildings. Requires an individual applying for a building permit issued by a city or town for a Class 1 or Class 2 structure after June 30, 2018, to disclose the use of advanced structural components on the building permit application. Requires the city or town building commissioner to notify the local fire department and local 911 call center of a Class 1 or Class 2 structure's use of advanced structural components not later than 90 days after issuing a building permit.

Directs a 911 telephone call center to maintain and relay information contained in a qualifying property's notification and received by the 911 telephone call center. Prohibits the fire prevention and building safety commission (commission) or a state agency from adopting rules requiring the installation of an automatic fire sprinkler system. Prohibits a political subdivision from adopting an ordinance or other regulation requiring the installation of an automatic fire sprinkler system. Requires that the commission adopt rules to replace the current statewide residential code before January 1, 2020. Provides that if the commission uses a national code as part of the adoption of the statewide residential code, the commission shall amend the national code as a condition of the adoption of the code.

Requires the commission to submit a report to the general assembly by January 1, 2019 regarding the commission's work related to the adoption of a replacement statewide residential code.

**Public Law 117-2018 - HEA 1262 - Public Funds and Tax Refund Intercepts**

Amends IC 5-13-9-5 and IC 5-13-9-11 effective July 1, 2018. Provides that certain restrictions requiring deposits of public funds to be made within the territorial limits of a political subdivision apply to funds invested in: (1) transaction accounts; and (2) certificates of deposit in a depository designated by the state board of finance but not by the local board of finance. Provides that an ordinance or resolution authorizing funds to be invested in such certificates of deposit expires not later than one year (rather than two years, under current law) after the ordinance or resolution is adopted. Revises the procedures involved when a political subdivision seeks a set off of a tax refund from the department of state revenue for debts owed to the political subdivision by a debtor. Repeals a provision pertaining to hearings with debtors on disputed debts that are owed to political subdivisions that use the tax refund set off process.

**Public Law 125-2018 - SEA 347 - Bonding Procedures**

Amends IC 5-1-11 effective July 1, 2018. Permits a consolidated city and second class city to sell bonds at a negotiated sale after June 30, 2018, and before July 1, 2021. (Current law requires a public sale of bonds.) Provides that this change does not apply to refinancing bonds and some revenue bonds that are dedicated to a limited purpose.

**Public Law 126-2018 - SEA 362 - Regulation of Water and Wastewater Systems**

Adds IC 8-1-1.9; Amends IC 13-11-2; Amends several chapters in IC 13-18 effective July 1, 2018. Eliminates conservancy districts and regional water or wastewater districts from the definition of "water or wastewater utility" for purposes of the chapter, making a water or wastewater utility organized as a legal entity after June 30, 2018, subject to the jurisdiction of the Indiana utility regulatory commission.

Provides that an applicant for a permit for the operation of a water treatment plant or wastewater treatment plant must submit to the department of environmental management (department), along with the permit application, a notarized certification that the applicant has prepared: (1) a life cycle cost-benefit analysis; (2) a capital asset management plan; and (3) a cyber security plan; and that the analysis and plans meet certain requirements. Requires an operator of a water treatment plant or a wastewater treatment plant to review and revise the plant operator's analysis and plans at least once every five years, for as long as the permit holder operates the water treatment plant or wastewater treatment plant.

Provides that a notarized certification of the plant operator's analysis and plans must be submitted to the department at least once every five years when the analysis and plans are reviewed and revised.

**Public Law 138-2018 - HEA 1089 - St. Joseph River Basin Commission**

Amends IC 14-8-2 and IC 14-30-3 effective July 1, 2018. Provides that the St. Joseph River Basin Commission includes the county surveyor of each participating county and a representative of each soil and water conservation district that includes territory in a county participating in the commission and territory in the river basin. Eliminates from the commission the member of a soil and water conservation district appointed by the governor. Repeals the commission's statutory quorum requirement.

Authorizes a political subdivision in a participating county to enter into a cooperative agreement with the commission and at least one other legal entity to authorize the commission to develop a plan to improve water quality or mitigate flooding. Requires the commission to schedule a public meeting concerning such a plan in each participating county containing a political subdivision that entered into the cooperative agreement with the commission for the development of the plan. Requires the commission, at least 10 days before a meeting concerning a proposed plan, to post a copy of the plan on the Internet and publish a meeting notice containing certain information. Requires the commission, in developing a plan, to determine the best method and manner of improving water quality or mitigating flooding, in view of certain considerations. Requires that a plan be approved by the state before it is implemented.

Authorizes the commission to: (1) develop plans and tools to mitigate flooding; (2) employ staff; (3) enter into contracts; (4) exercise the powers of a political subdivision specified in a cooperative agreement; (5) require that increased water runoff resulting from new construction be impounded on the construction site, but waive the impoundment requirement upon payment of a reasonable fee; (6) acquire conservation easements and acquire and remove improvements within the 100 year flood plains of the river basin; and (7) adopt rules restricting construction within the 100 year flood plains of the river basin.

Provides that the commission, the commission's executive board, or employees or authorized representatives of the commission may enter land within the 100 year flood plain of any watercourse in the river basin to investigate suspected violations of the flood control laws. Requires written notice to an owner of the affected land 21 days before an entry on the land, and requires the commission to hold a hearing on the necessity of the entry if an owner of the affected land appeals to the commission.

**Public Law 147-2018 - HEA 1311 - Motor Vehicle Matters**

Amends IC 9-22-3-15 and Amends IC 36-9-12-4 with various effective dates. Allows a police officer to charge a fee for title and vehicle identification number (VIN) inspections in certain instances. Specifies that a fee related to a title or VIN inspection performed by a police officer may not exceed \$5. Specifies that revenue generated by a fee related to a police officer's inspection of a title or VIN must be deposited in... a local law enforcement continuing education fund... Allows disbursements from a municipal special fund to be used to defray the cost and maintenance expenses associated with the operation of a municipally owned park where parking meters are located...

**Public Law 164-2018 - SEA 266 - Motor Vehicle Safety**

Amends several articles of Title 9 regarding Motor vehicle safety effective July 1, 2018. Requires that a license plate must be displayed in a horizontal and upright position that displays the registration expiration year in the upper right corner. Requires that a renewal sticker for a license plate must be securely affixed in the upper right corner of the license plate covering the previous registration expiration year.

Provides that a trailer of less than 3,000 pounds gross weight is not required to be equipped with brakes. Specifies that head lamps on motor vehicles, motorcycles, and motor driven cycles may display only white or amber light. Requires that motor vehicles except for motorcycles, motor vehicles manufactured before January 1, 1956, and motor driven cycles must be equipped with two stoplights.

Specifies that: (1) stop lamps on the rear of a vehicle must be red; and (2) signal lamps on the rear of a vehicle must display only red or amber light or any shade of color between red and amber. Specifies that signal lamps showing to the front of a vehicle must display only white or amber light or any shade of color between white and amber. Specifies that window treatments may not be applied below the AS-1 line.

Provides that the program established by the Indiana state police for the inspection of equipment for private buses applies only to private buses designed or used to transport 15 or more passengers (including the driver). Specifies that the provision in current law prohibiting the bureau of motor vehicles from registering a private bus unless the private bus has an unexpired certificate indicating compliance with the inspection program for private buses applies only to private buses that are designed or used to transport more than 15 passengers (including the driver).

Provides that exceeding an altered speed limit established by a local authority is a Class C infraction. Provides that exceeding a speed limit in a school zone is a Class B infraction. Provides that failing to maintain a minimum speed limit established by the department of transportation is a Class C infraction. Provides that exceeding an altered speed limit established by the department of transportation is a Class C infraction. Provides that a vehicle must be driven entirely within a marked lane.

Provides that a plain clothes law enforcement officer in an unmarked police vehicle may make an arrest for a violation of: (1) reckless driving causing endangerment; (2) recklessly passing a stopped school bus resulting in bodily injury; and (3) operating a vehicle while intoxicated in a manner that endangers a person.

**Public Law 165-2018 - SEA 269 - Road and Utility Repair**

Amends IC 8-6-7.7, IC 8-23-31, IC 13-11-2, IC 13-26-2, IC 13-26-8 effective July 1, 2018. Requires the department of transportation (department) to schedule an appeal of a local unit's denial of a petition to close a railroad crossing within 60 days after the denial of the petition. Defines "department action" as one or more of the following: (1) Detour creation or implementation. (2) Planned bridge repair. (3) Planned road repair. Requires the department to consider the following when determining when to let a contract involving certain construction, maintenance, and repair projects: (1) Impact on local commerce. (2) Impact on local residents. (3) Impact on local tourism. Requires the department to make a good faith effort to use: (1) the least disruptive timing when determining when to let a contract involving certain construction, maintenance, and repair projects; and (2) the least restrictive means when implementing or performing certain construction, maintenance, and repair projects. Requires the department to release a contract let list: (1) every 180 days; and (2) to at least 1 news media entity.

Provides that the hearing officer appointed to conduct a hearing concerning a petition to establish a regional water, sewage, or solid waste district is required to provide notice of the hearing to the executive of a city or town that has a municipal sewage works or public sanitation department having extraterritorial jurisdiction within the boundaries of the area to be included in the proposed district. Requires the board of trustees of a regional sewage district, when seeking to add territory to the district, to file a copy of its motion for the addition of territory in the office of: (1) the executive of each governmental entity having territory within the territory proposed to be added to the regional sewage district; and (2) the executive of a city or town that has a municipal sewage works or public sanitation department if the territory proposed to be added to the regional sewage district includes territory within the extraterritorial jurisdiction of the municipal sewage works or public sanitation department. Defines "governmental entity", for purpose of the law concerning regional water, sewage, and solid waste districts, as a municipal corporation or a special taxing district.

**Public Law 171-2018 - SEA 392 - Local Government Matters**

Amends IC 5-14-1.5-5, IC 5-14-3-3, IC 5-14-3-8, amends several chapters in IC 6-1.1 effective July 1, 2018. Establishes a process to: (1) divide and transfer land that is owned by a city or town and (2) assess the value of land that a city or town owns that the city or town has divided and transferred to an adjacent property owner. Provides that, in a tax sale, a county executive may include any costs directly attributable to the county in the price for the sale of a certificate of sale.

Amends the law exempting a town legislative body from giving notice of a meeting if the meeting concerns routine administrative functions. Provides that if a public record is in an electronic format, a state or local government agency (excluding the office of the county recorder) shall provide an electronic copy or a paper copy of the public record, at the option of the person making the request for the public record.

Prohibits, with certain exceptions, a state or local government agency from charging a fee for providing a public record by electronic mail.

**Public Law 179-2018 - HEA 1109 - Various Pension Matters**

Amends several sections in IC 5-10-5.5, IC 5-10-10, IC 5-10.2, IC 5-10.3, IC 5-10.4, IC 36-8-8 effective July 1, 2018. Removes a requirement that only active members of the public employees' retirement fund (PERF) and the Indiana teachers' retirement fund (TRF) may make rollover distributions into annuity savings accounts (ASA) from other qualified retirement accounts. Allows any PERF or TRF member who terminates employment and is not currently employed in a covered position or for the same employer to suspend fund membership, retain the member's creditable service, and withdraw all or part of the amount in the member's ASA before retirement. Requires employers eligible to purchase death benefit fund coverage for certain employees to pay for the coverage annually rather than quarterly. Removes charitable contributions as a voluntary benefit deduction for the 1977 police officers' and firefighters' pension and disability fund... Revises the effective date of participation by a political subdivision joining PERF from the earlier of January 1 or July 1 to a date approved by the INPRS board of trustees, but not later than 60 days after the date the political subdivision's PERF participation is approved...

**Public Law 183-2018 - HEA 1256 - Various Local Government Matters**

Adds 36-1-14-5 and amends 36-7-14-19 and IC 36-7-14-19.5 effective July 1, 2018. Provides that a county that sells a county hospital before January 1, 2017, may establish a charitable nonprofit foundation (foundation) to hold some or all of the proceeds of the sale of the county hospital in trust for the benefit of the county... Provides that another unit in the same county may enter into an interlocal agreement with the county council, the county executive, and the board to invest funds obtained by the unit from the sale of a capital asset into the foundation. Establishes requirements for the contents of the interlocal agreement. Provides that the department of local government finance (DLGF) may not reduce the actual or maximum permissible property tax levy of a unit that enters into an interlocal agreement on account of money transferred into or expended from the foundation... Makes changes to certain statutes regarding redevelopment commissions.

**Public Law 184-2018 - HEA 1263 - County Jail Issues**

Adds or amends several chapters in IC 6-3.6; amends IC 11-12-4-5; adds IC 11-12-5.5; amends IC 35-38-3-3 and adds IC 36-1-8-19 with various effective dates. Provides that a county fiscal body may adopt an ordinance to impose (within the local income tax expenditure rate) a tax rate for correctional facilities and rehabilitation facilities in the county. Specifies that the tax rate must be in increments of 0.01% and may not exceed 0.2%. Provides that the tax rate may not be in effect for more than 20 years. Specifies that the revenue generated by such a tax rate: (1) must be distributed directly to the county before the remainder of the expenditure rate revenue is distributed; and (2) shall be maintained in a separate dedicated county fund and used by the county only for paying for correctional facilities and rehabilitation facilities in the county... Specifies that the executive of a county may enter into an interlocal agreement with one or more other local or state entities for the construction, maintenance, or operation of a regional jail...

**Public Law 185-2018 - HEA1290 - Transportation Finance**

Adds, Amends, or Repeals several sections in the following chapters of the Indiana Code: IC 6-2.5-5, IC 6-6-1.6, IC 6-6-2.5, IC 6-6-4.1, IC 6-6-5.5, IC 8-14-1, IC 8-14-2, IC 8-16-5.5, IC 8-17-4.1, IC 8-23-29, IC 9-13-2, IC 9-18.1, IC 9-21-8, IC 9-21-22, IC 34-30-2 with various effective dates. Repeals the motor carrier surcharge tax and increases the special fuel tax by \$0.21 per gallon. Distributes part of the special fuel tax revenue to the motor carrier regulation fund. Specifies how netted International Fuel Tax Agreement Clearinghouse refunds and receipts are deposited or credited. Specifies that the commercial vehicle excise tax rate calculation that must be done on or before October 1 of each year is effective on January 1 of the following year. Excludes the transportation infrastructure improvement fee and the supplemental fees for registering electric and hybrid vehicles from the calculation of the commercial vehicle excise tax.

Changes various distribution percentages of revenue distributed from the motor vehicle highway account and highway, road and street fund.

Specifies that heating oil is not included in the sales tax exemption for special fuel.

Provides that for funds distributed to cities and towns from the motor vehicle highway account, each city or town must use at least 50% of the money for the construction, reconstruction, and preservation of the unit's highways. (Under current law, at least 50% must be used for construction, reconstruction, and maintenance.) Makes various changes to the accounting system for local roads and streets.

Establishes the New Harmony and Wabash River bridge authority (bridge authority). Specifies the composition and terms of bridge authority membership. Describes the purpose and duties of the bridge authority. Authorizes the bridge authority to charge and collect a toll for transit across the White County bridge (bridge). Requires the bridge authority to equip, improve, maintain, operate, reconstruct, rehabilitate, and restore the bridge for use by motor vehicles, pedestrians, and other forms of transportation. Allows the bridge authority to issue bonds and notes for certain purposes.

Provides that all registration fees collected under the International Registration Plan (IRP) or through an Indiana based IRP account (rather than only certain specified fees collected under the IRP or an Indiana based IRP account under current law) are covered by the statute providing for the first \$125,000 of such revenue each state fiscal year to be distributed to the state police building account and any remaining amounts to be distributed to the motor vehicle highway account. Specifies that the transportation infrastructure improvement fee shall be apportioned under the IRP. Specifies conditions under which a vehicle platoon may be operated in Indiana.

**Public Law 188-2018 - HEA 1323 - Heavy Equipment Rental Excise Tax**

Adds IC 6-6-15 effective January 1, 2019. Excludes heavy rental equipment from the assessment of the personal property tax. Imposes an excise tax on the rental of heavy rental equipment (excise tax)... Provides that the excise tax is apportioned and distributed to local governmental units (units) in the same manner that property taxes are apportioned and distributed. Provides that the excise taxes distributed to the units before January 1, 2020, must be deposited in the unit's excess levy fund. Provides that after December 31, 2019, excise taxes distributed to the units must be allocated among the unit's funds in the same proportion that the unit's property tax collections are allocated among those funds

**Public Law 189-2018 - HEA 1374 - Financing and Transportation**

Adds IC 5-1.2 and IC 5-1; amends or repeals related statutes with various effective dates. Adds a new article to the Indiana Code to consolidate and rewrite various statutes related to the Indiana finance authority (IFA)... Provides for the state, the IFA, and the northwest Indiana regional development authority to finance the northern Indiana commuter transportation district's construction of the mainline double tracking project and the West Lake corridor project... Continues current law appropriations for the wastewater and drinking water programs... Specifies documents that must accompany a loan or financial assistance from: (1) the drinking water or wastewater revolving loans funds; (2) the Indiana brownfields fund; (3) the flood control fund; and (4) local transportation infrastructure revolving funds...

**Public Law 196-2018 - HEA 1267 - Water Infrastructure Task Force**

Adds IC 2-5-44 effective March 22, 2018. Establishes a water infrastructure task force (task force)... Requires the task force to: (1) study specified issues concerning drinking water systems, wastewater management systems, and storm water management systems; (2) create an empirical decision making tool that will allow policymakers to prioritize water infrastructure projects; and (3) develop a long term plan for addressing drinking water, wastewater, and storm water management needs in Indiana. Requires the task force to submit a report containing certain recommendations to the general assembly and the governor not later than December 1, 2018... Requires the Indiana finance authority (IFA) to contract with an entity of its choosing to study the needs of the state, political subdivisions, and other public and private entities arising from the National Pollutant Discharge Elimination System (NPDES) stormwater program. Provides that IFA must require the contractor to complete and submit a written report setting forth the results of the study not later than December 1, 2019. Urges the legislative council to assign to an appropriate interim study committee the task of studying research and outreach efforts to reduce non-point source impacts on water quality.

**Public Law 207-2018 - HEA 1278 - Economic Improvement Districts**

Amends or repeals several sections in IC 36-7-22 effective July 1, 2018. Provides that a petition to establish an economic improvement district (district) may be filed with the clerk (in the case of a municipality) or the county auditor (in the case of the county). Requires a person that intends to file a petition for the establishment of a district to first provide the clerk or county auditor with written notice of the person's intent before initiating the petition process. Provides that a petition for the establishment of a district may be filed with the clerk or county auditor not later than 120 days after the date on which the person filed the notice of intent.

Requires the clerk or county auditor to retain the paper copy of a petition for not less than 90 days from the date the petition is filed. Provides that the clerk or county auditor shall publish notice of a hearing on the proposed district, mail a copy of the notice to each owner of real property within the district, and include the hearing date in the notice. Provides that the date of the hearing may not be more than 60 days after the date on which the notice is mailed.



**Public Law 207-2018 - HEA 1278 - Economic Improvement Districts - Continued**

Increases the required percentage number of signatures needed on a petition from owners of real property within a proposed district... Specifies that the signature of a person whose property is: (1) owned by this state, or a state agency, or leased to a state agency and is exempt from property taxation; or (2) owned by a political subdivision of this state and is exempt from property taxation; may not be considered in determining whether the required number of signatures needed on a petition are met.

Provides that the assessed valuation of property that is: (1) owned by this state, or a state agency, or leased to a state agency and is exempt from property taxation; or (2) owned by a political subdivision of this state and is exempt from property taxation; may not be considered in determining the total assessed valuation in the proposed district. Repeals the provision that allows the proposals contained in the petition to be amended or modified in the ordinance adopted to establish the district. Eliminates the provision that allows the board of a district (board) to increase a special assessment following a hearing on an owner's protest of the special assessment. Requires the board to either confirm or decrease the special assessment in its determination of the owner's protest.

Provides that the legislative body of a unit (legislative body) may not pass an amending ordinance to increase the boundaries of a district. Requires the district (or the person that files the petition, if the proposed district is rejected) to, at the request of the unit, reimburse the unit for the reasonable expenses incurred by the unit to comply with the statutory requirements for the district. Provides that the legislative body may choose not to collect all or part of the reasonable expenses.

**Public Law 212-2018(ss) - HEA 1242(ss) - State and Local Administration**

Amends several sections of IC 4-30-9, IC 4-33-2, IC 4-33-12, IC4-33-13, IC 4-35-2, IC 4-35-8, IC 5-2-10.1, IC 5-10-1.1, IC 5-10.2-2 effective May 14, 2018. Requires each redevelopment commission to annually present certain information for the governing bodies of all taxing units that have territory within an allocation area of the redevelopment commission. Provides that the presentation shall be made at a meeting of the redevelopment commission and must include certain information. Provides that the governing body of such a taxing unit may request that a member of the redevelopment commission appear before the governing body at a public meeting of the governing body. Requires, for a territory that was annexed by a municipality after June 1, 1976, and before March 4, 1988, one-half of the property taxes attributable to property taxes imposed by the park and recreation district on property that is within the annexed territory to be transferred to the annexing municipality's parks and recreation department. Makes technical corrections.

**Other Bills of Interest:**

P.L. 169-2018	SEA 380	Improvements in Historic Districts
P.L. 64-2018	SEA 411	Distressed Utilities
P.L. 172-2018	SEA 419	Professional and Occupational Licenses
P.L. 195-2018	HEA 1007	Mental Health Access

**Other Bills of Interest (continued):**

P.L. 18-2018	HEA 1023	Annexation Remonstrance Waivers
P.L. 109-2018	HEA 1027	Riverboat Admissions & Wagering Tax – Dearborn County
P.L. 175-2018	HEA 1056	Innkeeper Taxes
P.L. 177-2018	HEA 1065	Broad Band Grants to qualified broadband providers
P.L. 25-2018	HEA 1073	Child Care Location and Safety
P.L. 181-2018	HEA 1233	Environmental Management Matters
P.L. 182-2018	HEA 1245	Occupational Licenses
P.L. 146-2018	HEA 1288	Economic Development
P.L. 84-2018	HEA 1358	Intersection Safety Study
P.L. 211(ss)-2018 -	HEA 1230	(SS) School Safety

## Resolution 18-02 – Interim Study Committees

*Topics of Interest*

- Allocation of local income tax revenue when taxing units reorganize
- Sales and innkeeper’s tax on short term rental properties
- Regional Development Tax Credit
- Inclusion of residential property in TIF allocation area
- Publication of city/town receipts and expenditures
- Consolidation and revision of public works statutes
- Opioid Treatment programs
- Water Infrastructure Task Force

For information on these or any other bills from the 2018 Legislative Session or 2018 Special Legislative Session, please visit [www.iga.in.gov](http://www.iga.in.gov) and search the bill number on the tab “Bills”.

**STATEMENT OF ENGAGEMENT COST****For City and Town Engagements other than Utility Departments**

At the end of an audit engagement the State Board of Accounts sends a notice of Statement of Engagement Cost. This statement details a summary of the engagement including the number of days spent on the audit, the daily/hourly rate, and any report processing fees. We would like to point out that this statement is not an invoice that is to be paid. An invoice for payment of these audit costs will be sent to your County for payment in accordance with IC 5-11-4. You should not send any payments for the engagement costs because this amount will be taken out of the school’s next distribution from the County. Please keep this statement as documentation.

When your next distribution does arrive, the amount will be reduced by the engagement cost noted in this Statement. We have decided to not take exception to schools using any of the property tax funds to cover State Board of Accounts audit costs. We are also not taking exception to the General fund reimbursing the property tax fund in which it was withheld by the County.

**For Utility Departments**

At the end of an audit engagement the State Board of Accounts sends a notice of Statement of Engagement Cost, along with an invoice for payment. These will be two separate documents. Utility Departments are responsible to pay for their audit costs directly. The County will not pay this portion of the audit costs. Once you receive the Statement of Engagement Costs, along with the invoice for payment, please remit payment within 30 days.

**INVESTMENTS**

We have received a number of questions on allowable investments and working with investment companies or brokerage companies. The following is our audit position on this issue.

**Investing in Securities:**

IC 5-13-9-2 authorizes an investment officer to invest in certain securities that are listed in the statute. There are three categories listed: (1) Securities backed by the full faith and credit of the United States Treasury (2) securities fully guaranteed and issued by a federal agency, federal instrumentality or a federal government sponsored enterprise and (3) Municipal securities issued by an Indiana local government, a quasi-governmental entity related to the state or a unit of government, municipal corporation, or special taxing district in Indiana, if the issuer has not defaulted on any of the issuer's obligations within the last 20 years. The statute goes on to say in subsection (d) that "The investing officers of the political subdivision are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from: (1) a duly designated depository as prescribed in this article; or (2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its government supervisor body." To determine a duly designated depository, you may review the list of depositories on the Treasurer of State's website. The definition of a financial institution may be found in IC 5-13-4-10.

IC 5-13-4-10 "Financial institution"

Sec. 10. "Financial institution" means any of the following:

- (1) A bank, trust company, or mutual savings bank that:
  - (A) was incorporated under the law of Indiana or any other state; and
  - (B) has its principal office or a branch in Indiana.
- (2) A national banking association with its principal office or a branch in Indiana.
- (3) A savings association operating as a deposit association incorporated under Indiana law.
- (4) A federally chartered savings association with its principal office or a branch in Indiana.
- (5) A federally chartered savings bank with its principal office or a branch in Indiana.
- (6) A state chartered credit union in Indiana that is federally insured or privately insured and that has assets of three million dollars (\$3,000,000) or more.

In order for the city or town to be compliant with statute, the city or town funds must be deposited with a designated depository or financial institution as defined in the statute. If that is followed, the designated depository or financial institution has custody of the funds. The investment companies may work with a city or town on the purchase of these securities but they may not directly sell the securities to the city or town or have custody of any city or town funds. As an example, a city or town could purchase a T-Bill from an investment company, however, the cash for the purchase should be sent to the financial institution and the financial institution would then deliver the cash to the investment company after the investment company delivers the T-Bill to the financial institution on behalf of the city or town. The financial institution would have custody of the T-Bill.

**INVESTMENTS - Continued****Investing in Money Market Funds:**

IC 5-13-9-2.5 authorizes a political subdivision to invest money in money market mutual funds with certain restrictions. Again the statute describes the allowable securities for the portfolio of the money market fund. These include (1) direct obligations of the United States; (2) Obligations issued by a federal agency, a federal instrumentality or a federal government sponsored enterprise and (3) repurchase agreements fully collateralized by obligations describe in (1) or (2).

It also requires in subsection (b) "The investment described in subsection (a) shall be made through depositories designated by the state board of finance as depositories for state deposits under 5-13-9.5." The money market fund must be in the custody of the designated depository.

**Investing Officer Authority**

All investments must comply with Indiana Code 5-13-9 and the investment policies of the city or town established under IC 5-13-9-5.7.

According to IC 5-13-9-5.7(f), the investing officer may contract with a federally regulated investment advisor or other institutional money manager to make investments under this section. Any contracts should be reviewed by your city or town attorney to ensure that the city or town funds are adequately safeguarded within the contract. Even when utilizing the services of an investment advisor, it is ultimately the responsibility of the investing officer to make the final decision on the investments, having done due diligence to ensure that the investments comply with statute and with the city or town's investment policy. You should keep the documentation of your decision process.

**GARBAGE COLLECTION AND DISPOSAL**

The following are some statutory references which support the State Board of Accounts' audit position concerning garbage collection and disposal.

IC 36-1-3-8(6) states: A unit does not have the power to impose a service charge or user fee greater than that reasonably related to reasonable and just rates and charges.

IC 36-9-23 is entitled "Municipal Sewage Works" and applies to all municipalities.

IC 36-9-23-25 is entitled "Fees; factors used to establish; persons obligated to pay; disposition of certain fees; adoption of different schedules permitted."

IC 36-9-23-25(d)(8) states the municipal legislative body may use the following factor (among others) to establish sewage service fees: "The cost of collecting, treating, and disposing of garbage in sanitary manner, including equipment and wages." The statute further provides fees collected under subdivision (8) may be spent for that purpose only after compliance with all provisions of the ordinance authorizing the issuance of the revenue bonds for the sewage works.

IC 36-9-25 is entitled "Sanitation Department in Certain Cities" and applies to second class cities in which this statute has been adopted by ordinance; municipalities in Lake County that adopted this chapter by ordinance; and any second class city in LaPorte County.

IC 36-9-25-10 sets out powers of the board of sanitary commissioners and Section 10(13) states they may collect and remove, or contract for the collection and removal of, all garbage, ashes, dead animals refuse and wastes from domestic premises, and construct or have constructed stations, including barns, garages, sheds, blacksmith shops, dumps, incinerators, and all other useful or necessary improvements for this purpose. This includes the power to collect and remove soil and other sewage in areas not provided with sewers, and then discharge or discharge or dispose of it into sewage works.

IC 36-9-30 is entitled "Solid Waste Collection and Disposal" and applies to all units except townships.

IC 36-9-30-2 defines "solid waste": to mean "all putrescible and nonputrescible solid and semisolid wastes, except human excreta, but including garbage, rubbish, ashes, street cleaning, dead animals, offal, and solid commercial, industrial, and institutional wastes."

IC 36-9-30-5 sets out authorization and provisions related to contracting for collection or disposal. Subsection 5(b) requires all fees collected by the unit shall be deposited in the treasury of the unit for the administration, operation, and maintenance of the solid waste collection and disposal project. Subsection 5(d) states in part:

"If a contract executed under subsection (a) or (b) will yield gross revenue to a contractor (other than a governmental entity) of at least twenty-five thousand dollars (\$25,000) during the time it is in effect, then the unit must comply with IC 36-1-12-4 in awarding the contract. The unit shall require the bidder to submit a financial statement, a statement of experience, the bidder's proposed plan or plans for performing the contract, and the equipment that the bidder has available for the performance of the contract."

IC 36-9-30-15 states: "The acquisition, establishment, construction, installation, operation, and maintenance of facilities and land for the collection and disposal of solid waste may be financed through general taxation, service fees, or a combination of these methods:"

**GARBAGE COLLECTION AND DISPOSAL - Continued**

From the foregoing statutes, there appear to be three methods available for providing trash or solid waste collection and disposal:

1. Under IC 36-9-23, the service charges can be a part of the sewage utility fees. IC 36-9-25 also authorizes all second class cities and all municipalities in Lake County to make this service a part of the sanitary district service fees.
2. IC 36-9-30 authorizes a separate utility along with a separate fund for solid waste collection, treatment, and disposal.
3. IC 36-9-30 also allows a unit to pay for this service by general taxation.

To summarize, if a unit wishes to either establish a pickup service or to change from tax-supported service to a user fee service, the foregoing statutes should be reviewed by the unit's legal counsel. The unit's attorney should prepare an ordinance expressing the governing body's wishes, the ordinance should be advertised, public hearings should be conducted, and the legislative body should act thereon. The ordinance should set out such provisions as:

1. The service to be provided.
2. The area in which the service is to be provided.
3. The method by which the service is to be provided.
4. The charges for the service. The charges should be billed separately even if established as a service of the sewage utility.
5. The method of payments of user charges, period covered, due dates, location of places payments are to be received, etc.
6. Any penalties to be assessed for late payments.
7. The method of accounting for service charges. The Home Rule statute, as well as the other statutes cited, requires the revenues to be restricted to the amount reasonably related to the cost of providing the services. None of the statutes authorize a profit to be made or for any surplus to be transferred to another fund for other uses. Accounting shall be such that documentation will be provided to comply with the foregoing provisions.

**RETAINAGE ON PUBLIC CONTRACTS IN EXCESS OF \$200,000**

Pursuant to IC 36-1-12-14, it is required that when public works contracts are awarded by a city or town for certain public works or improvements and such contracts exceed \$200,000, such contracts shall include provisions for the retainage of portions of payments by the board to contractors, by contractors to subcontractors, and for the payment of subcontractors. This statute applies to the construction, alteration, or repair of all buildings or other improvements the cost of which is paid from public funds or from special assessments imposed and levied on real estate, land and lots benefited thereby but shall not include highways, roads, streets, alleys, bridges and appurtenant structures situated on streets, alleys and dedicated highway right-of-way.

**RETAINAGE ON PUBLIC CONTRACTS IN EXCESS OF \$200,000 - Continued**

At the discretion of the contractor, the retainage shall be held by the board or shall be placed in an escrow account with a bank, savings and loan institution, or the state as escrow agent. The escrow agent shall select by mutual agreement between the board and contractor or contractor and subcontractor under a written agreement among the bank or savings and loan institution and

1. the board and the contractor; or
2. the subcontractor and the contractor.

Where an escrow agent is selected, it is required that at the time any retainage is withheld the amount of the retainage shall be placed in an escrow account with the escrow agent, to be promptly invested by the escrow agent in its discretion. The escrowed principal and the income from the investments shall be held by the escrow agent until receipt of a notice releasing the funds in accordance with the terms of the law and the agreement.

When a bank or savings and loan institution is selected as escrow agent, the amount of the retainage withheld shall be paid by warrant to the escrow agent and, when paid, shall be treated in the same manner as any other payment on the contract, with the escrow agent being required to deposit, invest and otherwise account for the escrowed principal and interest, in accordance with the law and the terms of the agreement. The escrow account will not be carried on the records of the city or town.

The law provides that the escrow agent shall be compensated for its service as the parties may agree in an amount comparable with fees being charged for the handling of escrow accounts of similar size and duration. The fee shall be paid from the escrowed income of the escrowed account.

To determine the amount of retainage to be withheld the board shall:

1. Withhold no more than ten percent (10%) nor less than six percent (6%) of the dollar value of all work satisfactorily completed until the public work is fifty percent (50%) completed and nothing further after that; or
2. Withhold no more than five percent (5%) nor less than three percent (3%) of the dollar value of all work satisfactorily completed until the public work is substantially completed.

If upon substantial completion of the public work minor items remain uncompleted within sixty-one (61) days after the date of substantial completion, an amount equal to two hundred percent (200%) of the value of each item as determined by the architect-engineer shall be withheld until the item is completed.

There is also a requirement that the contractor furnish a performance bond equal to the contract price.

If the contractor chooses to have the retainage held by the board, then the board is not required to pay interest on the amounts of retainage it holds. However, such amounts held by the board will be carried on the records of the city or town as an agency fund.

**BOND OR CERTIFIED CHECK – FILING BY BIDDERS**

The political subdivision or agency:

1. Shall require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting if the cost of public work is estimated to be more than two hundred thousand dollars (\$200,000); and
2. May require a bond or a certified check to be filed with each bid by a bidder in the amount determined and specified by the board in the notice of the letting if the cost of the public work is estimated to be not more than two hundred thousand dollars (\$200,000).

The amount of the bond or certified check may not be set at more than ten percent (10%) of the contract price. The bond or certified check shall be made payable to the political subdivision or agency.

All checks of unsuccessful bidders shall be returned to them by the board upon selection of successful bidders. Checks of successful bidders shall be held until delivery of the performance bond, as provided in IC 36-1-12-14(e). [IC 36-1-12-4.5]



**PUBLIC PURCHASES LAW – OVERVIEW****Definitions**

Change Order	<a href="#">IC 5-22-2-2</a>
Committee	<a href="#">IC 5-22-2-2.7</a>
Contract Modification	<a href="#">IC 5-22-2-3</a>
Contractor	<a href="#">IC 5-22-2-4</a>
Cost Reimbursement Contract	<a href="#">IC 5-22-2-5</a>
Fiscal Body	<a href="#">IC 5-22-2-11</a>
Governmental Body	<a href="#">IC 5-22-2-13</a>
Internet Purchasing Site	<a href="#">IC 5-22-2-13.7</a>
Invitation for Bids	<a href="#">IC 5-22-2-14</a>
Offer	<a href="#">IC 5-22-2-17</a>
Offeror	<a href="#">IC 5-22-2-18</a>
Operating Agreement	<a href="#">IC 5-22-2-19</a>
Person	<a href="#">IC 5-22-2-20</a>
Policy	<a href="#">IC 5-22-2-21</a>
Political Subdivision	<a href="#">IC 5-22-2-22</a>
Public Funds	<a href="#">IC 5-22-2-23</a>
Purchase	<a href="#">IC 5-22-2-24</a>
Purchasing Agency	<a href="#">IC 5-22-2-25</a>
Purchasing Agent	<a href="#">IC 5-22-2-26</a>
Purchase Description	<a href="#">IC 5-22-2-27</a>
Request for Proposals (RFP)	<a href="#">IC 5-22-2-28</a>
Rule	<a href="#">IC 5-22-2-29</a>
Services	<a href="#">IC 5-22-2-30</a>
Solicitation	<a href="#">IC 5-22-2-32</a>
Special Fund	<a href="#">IC 5-22-2-33</a>
Special Purchase	<a href="#">IC 5-22-2-34</a>
Specification	<a href="#">IC 5-22-2-35</a>
Supplies	<a href="#">IC 5-22-2-38</a>
Using Agency	<a href="#">IC 5-22-2-39</a>

Other terms related to purchasing are also defined in [IC 5-22-2](#)

**General Rules**

The Public Purchasing Law, [IC 5-22](#), applies to every expenditure of public funds by a governmental body to purchase equipment, goods, or materials, unless specifically exempted by law, [IC 5-22-1-1](#).

If the item to be purchased (equipment, goods, or materials, a “supply”, [IC 5-22-2-38](#)) has a cost equal to or above \$150,000, then the purchasing agent must follow the competitive bidding procedures of [IC 5-22-7](#).

If the item to be purchased costs less than \$50,000, then the purchasing agent may purchase in accordance with the small purchase policies established by the purchasing agency or under rules adopted by the governmental body, [IC 5-22-8-2](#).

**PUBLIC PURCHASES LAW – OVERVIEW – Continued**

If the item to be purchased costs between \$50,000 and \$150,000, the purchasing agent may purchase supplies by inviting quotes from at least three (3) persons known to deal in the supplies to be purchased, [IC 5-22-8-3](#).

Purchases and purchase requirements may not be artificially divided so as to constitute a small purchase under [IC 5-22-8](#), [IC 5-22-8-1\(b\)](#).

A governmental body may adopt rules to regulate purchases of the governmental body. [IC 5-22-3-3](#)

**Exception to the General Rules**

Purchase of Services: The purchasing agency of a governmental body may purchase services using any procedure the governmental body or the purchasing agency of the governmental body considers appropriate, [IC 5-22-6-1](#). A governmental body may adopt rules and establish policies governing the purchase of services for the governmental body, [IC 5-22-6-2](#).

Public Works: Public works projects are governed by [IC 36-1-12](#). "Public work" means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement, [IC 36-1-12-2](#).

Non-applicability of [IC 5-22](#) to certain governmental bodies, see [IC 5-22-1-2](#).

Types of activities excluded from [IC 5-22](#), see [IC 5-22-1-3](#)

**Special Purchasing Methods**

No solicitation of bids or proposals, [IC 5-22-10](#):

1. Competition required, [IC 5-22-10-2](#).
2. Unique opportunity for substantial savings, [IC 5-22-10-5](#).
3. Auctions, [IC 5-22-10-6](#).
4. Data processing contracts or license agreements, [IC 5-22-10-7](#).
5. Compatibility, [IC 5-22-10-8](#).
6. Failure to receive responsive offer, [IC 5-22-10-10](#).
7. Discount, [IC 5-22-10-12](#).
8. Single source, [IC 5-22-10-13](#).
9. Contract with federal or state agency, [IC 5-22-10-15](#).
10. Gifts, [IC 5-22-10-17](#).

**Other Special Purchasing Situations**

1. Online reverse auctions, [IC 5-22-7.5](#).
2. Qualified nonprofit agencies for individuals with a disability, [IC 5-22-13](#).
3. Small business set-aside purchases, [IC 5-22-14](#).

**PUBLIC PURCHASES LAW – OVERVIEW – Continued****Purchasing Preferences**

1. Definitions, [IC 5-22-15-2](#) through [IC 5-22-15-6](#).
2. Indiana business preference in rules adopted under [IC 5-22-15-20](#).
3. Preference for supplies as provided by [IC 5-22-15-16, -18, -19, -24](#).
4. Indiana small business preference as provided by [IC 5-22-15-23](#).
5. Indiana farm product preference as provided by [IC 5-22-15-23.5](#).
6. Absolute preference for coal mined in Indiana, [IC 5-22-15-22](#).
7. Supplies manufactured in the United States, [IC 5-22-15-21](#).
8. Steel products manufactured in the United States, [IC 5-22-15-25](#).
9. Governmental body may adopt rules to implement [IC 5-22-15](#), [IC 5-22-15-15](#).

**Other Special Purchasing Requirements**

1. Purchase from Department of Correction, [IC 5-22-11](#).
2. Purchase of rehabilitation center products, [IC 5-22-12](#).
3. Petroleum products, [IC 5-22-17-10](#).

**Request for Proposal Process**

A purchasing agent may award a contract using the procedure provided by [IC 5-22-9](#):

1. Request for proposals (RFP), [IC 5-22-9-2, -3, -4, -5, -8](#).
2. Discussions, final offers, awards, [IC 5-22-9-6, -7, -9](#).
3. Evaluation of proposals, [IC 5-22-9-10](#).

**Qualifications and Duties of Offerors**

1. Responsible and responsive offerors, [IC 5-22-16-1, -2](#).
2. Registration with Secretary of State - foreign corporation, [IC 5-22-16-4](#).
3. Evidence of financial responsibility, performance bond, [IC 5-22-16-5](#).
4. Non-collusion affirmation required, [IC 5-22-16-6](#).

**Contracts**

1. Cost plus percentage of cost contracts prohibited, [IC 5-22-17-1](#).
2. Cost reimbursement contract allowed under conditions, [IC 5-22-17-2](#).
3. Time period for contracts - generally 4 years, [IC 5-22-17-3](#).
4. Appropriations, cancellation, [IC 5-22-17-3](#) and [IC 5-22-17-5](#).
5. Award of contracts, separate awards, [IC 5-22-17-12](#).
6. Fixed price per unit, [IC 5-22-17-13](#).
7. Renewal of contracts, [IC 5-22-17-4](#).
8. Early or late performance, [IC 5-22-17-6](#).
9. Policies and rules for inclusion of certain clauses or provisions, [IC 5-22-20-1](#).
10. Adjustments in price, [IC 5-22-20-2](#).

**PUBLIC PURCHASES LAW – OVERVIEW – Continued****Other Administrative Provisions**

Other procedures governing purchasing are set forth in [IC 5-22-18](#):

1. Public notice, competition, [IC 5-22-18-1](#).
2. Cancellation of solicitation and rejection of offers, [IC 5-22-18-2](#).
3. Offers opened after time stated in solicitation, [IC 5-22-18-3](#).
4. Public inspection of contract and purchasing records, [IC 5-22-18-4](#).
5. Delivery of purchase order or lease, [IC 5-22-18-5](#).
6. Determinations are final, [IC 5-22-19](#).
7. Rules and policies on changes in work, [IC 5-22-20-1](#).
8. Adjustments in price, [IC 5-22-20-2](#).
9. Electronic transmission of material, [IC 5-22-3-4](#), [IC 5-22-7-5](#), [IC 5-22-7.3-5](#), [IC 5-22-7.3-9](#), [IC 5-22-9-3](#)

**MEMORIAL DAY EXPENSES**

IC 10-18-8-1 provides that the respective authorities of counties, townships, cities and towns each may appropriate annually to one (1) or more posts, garrisons, or camps of a military service organization or veterans service organization in the respective counties, townships, cities, or towns a sum to aid in defraying the expenses of Memorial Day.

**VETERANS MEMORIALS**

IC 10-18-8-2 provides that the respective authorities of the several counties, townships, cities, and towns of Indiana may appropriate annually a sum of money to be allocated to an appropriate nonprofit veteran's organization for the development, establishment, or maintenance of a veteran's memorial located within the respective county, town, city, or township allocating the funds.

**COMPENSATION OF CITY APPOINTIVE OFFICERS AND EMPLOYEES****IC 36-4-7-3 states:**

- (a) This section does not apply to compensation paid by a city to members of its police and fire departments.
- (b) Subject to the approval of the city legislative body, the city executive shall fix the compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section not later than November 1 of each year for the ensuing budget year.
- (c) Compensation fixed under this section may be increased or decreased by the executive during the budget year for which it is fixed.
- (d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under [IC 36-4-11-4](#).

**COMPENSATION OF ELECTED CITY AND TOWN OFFICERS**

The compensation of an elected city or town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year. (IC 36-4-7-2 and IC 36-5-3-2).

**ESTABLISHING THE ESTIMATED COST OF CAPITAL ASSETS**

When it is not possible to determine the historical cost of capital assets owned by a governmental unit, the following procedure should be followed.

Develop an inventory of all capital assets which are significant for which records of the historical costs are not available. Obtain an estimate of the replacement costs of these assets. Through inquiry determine the year or approximate year of acquisition. Then multiply the estimated replacement cost by the factor for the year of acquisition from the Table of Cost Indexes. The resulting amount will be the estimated cost of the asset.

In some cases estimated replacement cost can be obtained from insurance policies; however, if estimated replacement costs are not available from insurance policies, you should obtain or make an estimate of the replacement costs.

If the replacement cost is estimated to be \$76,000.00 and the asset was constructed about 1930, then the estimated cost of the asset should be reported as \$5,320.00.

$$\$76,000.00 \times .07 = \$5,320.00$$

TABLE OF COST INDEXES  
1922 to 2017

<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>
2017	1.00	1993	.59	1969	.15	1945	.07
2016	.98	1992	.57	1968	.14	1944	.07
2015	.97	1991	.56	1967	.14	1943	.07
2014	.97	1990	.53	1966	.13	1942	.07
2013	.95	1989	.51	1965	.13	1941	.06
2012	.94	1988	.48	1964	.13	1940	.06
2011	.92	1987	.46	1963	.12	1939	.06
2010	.89	1986	.45	1962	.12	1938	.06
2009	.88	1985	.44	1961	.12	1937	.06
2008	.88	1984	.42	1960	.12	1936	.06
2007	.85	1983	.41	1959	.12	1935	.06
2006	.82	1982	.39	1958	.12	1934	.05
2005	.80	1981	.37	1957	.11	1933	.05
2004	.77	1980	.34	1956	.11	1932	.06
2003	.75	1979	.30	1955	.11	1931	.06
2002	.73	1978	.27	1954	.11	1930	.07
2001	.72	1977	.25	1953	.11	1929	.07
2000	.70	1976	.23	1952	.11	1928	.07
1999	.68	1975	.22	1951	.11	1927	.07
1998	.67	1974	.20	1950	.10	1926	.07
1997	.66	1973	.18	1949	.10	1925	.07
1996	.64	1972	.17	1948	.10	1924	.07
1995	.62	1971	.17	1947	.09	1923	.07
1994	.60	1970	.16	1946	.08	1922	.07

**QUESTIONS and ANSWERS from ANNUAL CONFERENCE**

The following questions were among those posed to the State Board of Accounts as the Annual Conference.

**Question:** Does the requirement to spend at least 50% of the MVH fund on construction, reconstruction, and now preservation include local property taxes and other receipts – or does the 50% apply only to MVH state distributions?

**Answer:** IC 8-14-1-5(c) [effective July 1, 2018] states “For funds distributed to a city or town from the motor vehicle highway account, the city or town shall use . . . .” From an audit perspective, it would be 50% of the distributions you receive from the State.

**Question:** What are the consequences if we don’t spend at least 50% of our MVH distributions appropriately because the intent was to use it for a local match? We did not get the grant but found out too late in the year to complete a major road project.

**Answer:** You would still be required to comply with IC 8-14-1-5(c) and use 50% of your MVH distributions on construction, reconstruction, or preservation. So if you don’t have a major road project planned for the year because you didn’t get the Community Crossing Grant, you could still use the distributions on preservation road activities.

**Question:** Can we put some of our MVH money in a Cumulative Capital Development fund to save for a future, very expensive road project?

**Answer:** No. MVH money must be receipted to your MVH fund and used for the purposes provided for in IC 8-14-1-5.

**Question:** With the changes to the MVH laws, are we still able to utilize MVH monies to pay for street lights?

**Answer:** Our position on using MVH for street lights remains the same. As found in the *Cities and Towns Bulletin and Uniform Compliance Guidelines* (December 2016), in Official Opinion No. 20 of 1950, the Attorney General held that if the installation of ornamental street lighting is a matter of traffic safety, it is within the permission of the statute. Whether it is a matter of traffic safety is a question of fact to be determined in each instance from all the surrounding facts and circumstances. Based upon the foregoing, it is our audit position that if in the written opinion of a city or town attorney it is held that street lighting is a matter of traffic safety, we would not take exception to a city or town using motor vehicle highway funds for such a purpose.

**QUESTIONS and ANSWERS from ANNUAL CONFERENCE - Continued**

**Question:** We have to use MVH on roads 50/50 – can these funds be used as the match for the Community Crossing Grant?

**Answer:** Yes. MVH can be used as part of your Community Crossing Grant match and this portion would be included in the 50 percent used for construction, reconstruction, or preservation. IC 8-23-30-3 provides a local match for the Community Crossing Grant can come from one or more of the following: (1) any money a city/town is authorized to use for a local road or bridge project; (2) money received as a special distribution of local income taxes under IC 6-3.6-9-17; (3) money in the rainy day fund under IC 36-1-8-5.1.

**Question:** Can the cost of the Street Sweeper, fuel, and wages count as road funds toward the 50% restriction?

**Answer:** If you can allocate and document the costs of fuel and wages to specific road activities of construction, reconstruction, and preservation, the answer is yes. The costs of the street sweeper, while permitted to be paid from MVH, would not be considered a construction, reconstruction, or preservation activity.

**Question:** Can the City police department use promotional funds for employee awards, meals, or similar items?

**Answer:** A promotion of business appropriation can be established in a General fund by a Home Rule ordinance adopted by Council. The uses of the promotion appropriation should be specifically provided for in the ordinance. So if your community's ordinance provided for police department employee awards and meals, we would not take audit exception unless we determined the amounts were excessive. For a more in-depth discussion of the Promotion of Business appropriations, please see the *Cities and Towns Bulletin and Uniform Compliance Guidelines - December 2015*.

**Question:** The balance in our Pension Trust fund is accumulating and we only have one widow left that is receiving a pension from the 1925 plan. Once the widow passes, what can the remaining money in the fund be used for?

**Answer:** Per IC 36-8-9-5.5, money in the 1925 Police Pension Fund not necessary for benefit payments can be used to pay the employer contributions and member contributions paid by the employer to the 1977 Police and Firefighter's Pension.

**QUESTIONS and ANSWERS from ANNUAL CONFERENCE - Continued**

**Question:** Annual Highway Operational Report – will our cash balances and tax revenues be pre-populated since you already have those?

**Answer:** No. Those amounts will have to be input into the LTAP online data management system. The amounts we would already have would be in Gateway, which is not associated with the LTAP system and highway reporting being implemented. We understand this will require a duplication of entry and we apologize for the inconvenience, but with the two systems being separate it was unavoidable.

**Question:** Does the State understand how many entities use the MVH fund for payroll and benefits when determining valid/allowable uses?

**Answer:** For purposes of the 50% restriction, the State Board of Accounts will not take audit exception to the payment of payroll and benefits directly allocated to the specific road activities of construction, reconstruction, and preservation.

**Question:** When filling out the highway Annual Operational Report for the account line used for road construction in CEDIT (an “other fund”), does the entire CEDIT fund need to be reported – meaning all expenditures and revenues?

**Answer:** No. When reporting highway activity on the Annual Operational Report of funds that have other types of expenditures besides road funding (like CEDIT, General, Riverboat, Rainy Day, etc.), only include the amounts specific for road funding.

For example, in Sampletown, CEDIT had total receipts of \$123,456 and total disbursements of \$98,765 for the year. Of that amount, \$30,000 was spent on roads. In the highway Annual Operational Report in a column headed “CEDIT”, Sampletown would show receipt funding of \$30,000 and disbursements of \$30,000 – with the \$30,000 of disbursements being appropriately identified as to the amounts of general unallocated costs, construction, reconstruction, preservation, or maintenance and repair.





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MEMORANDUM

TO: All City and Town Courts  
FROM: Paul D. Joyce, State Examiner  
DATE: June 26, 2018  
RE: Court Costs/Fee Changes

=====

The following court fees will change, effective July 1, 2018:

1. PRETRIAL DIVERSION FEES – Public Law 24, House Enrolled Act 1057, adds an initial user fee of \$75 for a felony offense. It also increases a monthly user's fee from \$10 to \$20 and adds any additional program fee or cost that is reasonably related to the persons' rehabilitation and approved by the court. Finally, it adds that a monthly user fee may not be collected beyond the maximum length of the possible sentence.

A breakdown of court costs and fees on Infraction/Ordinance Violation Cases and Civil Cases is enclosed.

If you should have further questions, please contact Todd Caldwell or Susan Gordon at (317) 232-2513 or email [cities.towns@sboa.in.gov](mailto:cities.towns@sboa.in.gov).

TEC:csc

Enc.

CHAPTER 2  
COURT COSTS

COURT COSTS TO BE CHARGED

<u>Case Type</u>	<u>Case Class Code</u>	<u>Total Cost 100%</u>	<u>Due State Semiannually 55%</u>	<u>Due County Monthly 20%</u>	<u>Due City/Town Monthly 25%</u>
<b>Criminal Actions [IC 33-37-4-1] (Note 1):</b>					
Criminal Felony	CM	\$ 120.00	\$ 66.00	\$ 24.00	\$ 30.00
Criminal Misdemeanor	CM	\$ 120.00	\$ 66.00	\$ 24.00	\$ 30.00
Miscellaneous Criminal	MC	\$ 120.00	\$ 66.00	\$ 24.00	\$ 30.00
<b>Judgments [IC 33-37-4-2] (Note 2):</b>					
Infractions	IF	\$ 70.00	\$ 38.50	\$ 14.00	\$ 17.50
Local Ordinance Violations	OV	\$ 70.00	\$ 38.50	\$ 14.00	\$ 17.50
<b>Civil Actions [IC 33-37-4-4]:</b>					
Civil Collections	CC	\$ 100.00	\$ 55.00	\$ 20.00	\$ 25.00
Plenary	PL	\$ 100.00	\$ 55.00	\$ 20.00	\$ 25.00
Domestic Relations	DR	\$ 100.00	\$ 55.00	\$ 20.00	\$ 25.00

Note 1. Instead of criminal costs fees prescribed by IC 33-37-4-1, the clerk shall collect a **pretrial diversion program fee** if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires the payment of those fees by the accused person. The pretrial diversion program fee is an initial user's fee of fifty dollars (\$50) for a misdemeanor offense and an initial user's fee of seventy-five dollars (\$75) for a felony offense; a monthly user's fee of twenty dollars (\$20) for each month that the person remains in the pretrial diversion program; and any additional program fee or cost that is reasonably related to the person's rehabilitation and approved by the court. A monthly user fee may not be collected beyond the maximum length of the possible sentence. [IC 33-37-4-1(c)]

In addition and where the court defers prosecution under IC 33-39-1-8, IC 33-37-5-17 requires the defendant to pay a **deferred prosecution fee** for court costs of one hundred twenty dollars (\$120.00) and any applicable user or program fees described under IC 33-39-1-8(f) or IC 33-39-1-8(h).

The one hundred twenty dollars (\$120.00) would be distributed as follows:

<u>Total Cost 100%</u>	<u>State Semiannually 55%</u>	<u>Due County Monthly 20%</u>	<u>Due City/Town Monthly 25%</u>
<u>\$ 120.00</u>	<u>\$ 66.00</u>	<u>\$ 24.00</u>	<u>\$ 30.00</u>

Persons placed in the pretrial diversion program shall also pay a public defense administration fee of five dollars (\$5), a judicial insurance adjustment fee of one dollar (\$1), a judicial salaries fee of twenty dollars (\$20), a court administration fee of five dollars (\$5), a DNA sample processing fee of three dollars (\$3), a document storage fee of five dollars (\$5), a highway worksite zone fee of fifty cents (\$.50) for a driving offense, and an automated record keeping-deferral/diversion fee of five dollars (\$5).

Note 2. Instead of the infraction or ordinance violation costs prescribed by IC 33-37-4-2, the clerk shall collect a **deferral program fee** if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is an initial user's fee of not to exceed fifty-two dollars (\$52.00) and a monthly user's fee of not to exceed ten dollars (\$10.00) for each month the person remains in the deferral program. [IC 33-37-4-2(e)]

In addition, IC 34-28-5-1 requires the defendant in the action to agree to pay a fee of seventy dollars (\$70.00) to the clerk of the court if the action involves a moving traffic offense (as defined in IC 9-13-2-110). Furthermore, IC 33-37-8-5 requires two dollars (\$2) of every deferral program fee collected to be accounted for as a jury fee. The defendant shall also pay a highway worksite zone fee of fifty cents (\$.50) for a driving offense, a document storage fee of five dollars (\$5) and an automated recordkeeping-deferral/diversion fee of five dollars (\$5).

The seventy dollars (\$70.00) would be distributed as follows:

Total Cost 100%	State Semiannually 55%	Due County Monthly 20%	Due City/Town Monthly 25%
<u>\$ 70.00</u>	<u>\$ 38.50</u>	<u>\$ 14.00</u>	<u>\$ 17.50</u>



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June 12, 2018

TO: GOVERNMENT OFFICIALS

As an agency, we have evaluated our policies and procedures to provide a more efficient and cost effective audit process to governmental units. Advancements in technology allow us to streamline our processes and do more monitoring, planning, and audit work prior to coming on site.

In order to continue to be as efficient as possible with our processes and procedures, we have developed a new Gateway Application Titled *Monthly and Annual Engagement Uploads (Uploads)*. Within this application, we will be asking for some files to be uploaded monthly and some files to be uploaded annually.

Monthly, we will be requiring the following to be uploaded:

- Bank Reconcilements
- Approved Board Minutes
- Funds Ledger, Detailing Receipts and Disbursements, by Fund

Annually, we will be requiring the following to be uploaded:

- Year-End Bank Statements
- Year-End Outstanding Check List
- Year-End Investment Statements
- Detail of receipts and disbursements for the year
- Salary Ordinance
- Employee Earnings Records
- Annual Vendor History Report

**We are requiring that all governmental units, with the exception of schools and counties, start this upload process with July 2018 files.** July 2018 files will be required to be uploaded no later than September 15, 2018. We also encourage you to upload prior months' files, back to January of 2018, as this will help us more efficiently plan for your next engagement.

**We will ask that counties and schools, including extra-curricular accounts, upload required January files in March 2019. More information will be forthcoming on what documents we will be requesting from counties and schools at a later date.**

The availability of these files on Gateway will allow us to do more audit planning and audit work prior to coming on site to your unit. This should significantly minimize the number of days we are on site at the local governmental unit. Additionally, we can perform real-time audit procedures that can be utilized for the next scheduled engagement. The availability of these files will also allow us the opportunity to observe conditions at a unit on an on-going basis. Issues that arise can be detected in the early stages before they become unmanageable. Less time spent on site, real-time audit procedures, and early detection of potential audit issues will provide audit cost savings to a unit.

Government Officials  
Page 2  
June 12, 2018

It is our intent to use this new *Uploads* application to better plan for our audit engagements, better assess the risk of our governmental units, and provide an overall more efficient audit process for each of you. As with any new process, there will be a learning curve. We will work diligently with you to work out any issues that you are having in this upload process.


Our local Directors have begun training on this new application and will continue to do so over the next several months, so please plan to attend your next training opportunity to learn more.

We encourage you to review the user guide for this new application as soon as possible, which is located at:

<https://gateway.ifionline.org/userguides/engagementguide>

Many answers to questions you have will be found here. You might even start at the end of the guide under frequently asked questions which should help you with your most pressing questions.

We appreciate that you have many responsibilities and that your time and efforts are valuable. We would not require this if we were not certain that this would measurably enhance, not only the financial accountability to our citizens, but the overall audit process to each of you. As you go through this process, please do not hesitate to contact us with your concerns and suggestions at [gateway@sboa.in.gov](mailto:gateway@sboa.in.gov).

  
Paul D. Joyce, CPA  
State Examiner