

# THE COUNTY BULLETIN

## And Uniform Compliance Guidelines

### ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 431

June 2022

#### REMINDER OF ORDER OF BUSINESS

#### July

- 1 On or before this date or 51 days after the tax payment due date the county treasurer shall certify a list of real estate delinquencies for tax sale. [IC 6-1.1-24-1]  
  
On or before July 1 of each year, each county assessor shall certify to the county auditor the assessment value of the personal property in every taxing district. [IC 6-1.1-3-17]
- 2 On or before this date, the county auditor should receive County Form 144 (Statement of Salaries and Wages Proposed to be Paid Officers and Employees), from officers, boards, commissions and agencies [IC 36-2-5-4]. The county auditor shall present these forms to the county executive at its July meeting. The county executive shall review and make its recommendations. Before August 20 the county executive shall present County Form 144 and its recommendations to the county fiscal body.
- 4 Legal Holiday - Independence Day [IC 1-1-9-1]
- 11 Distribute congressional interest to school corporations - second Monday. [IC 20-42-2-7]
- 15 In those counties participating in Public Employee's Retirement Fund, last day to make pension report and payment for the second quarter of 2022 to the Public Employee's Retirement Fund.
- 20 Last day to report and make payment of balance of State and County Income Tax withheld in the month of June to Indiana Department of Revenue.
- 31 Last day to file quarterly contribution and wage reports with Indiana Department of Workforce Development.  
  
Last day for county treasurer to mail demand notices to delinquent personal property taxpayers. [IC 6-1.1-23-1]

#### August

- 3 Last date for county officers and department heads to file the respective budget estimates with county auditor - Wednesday following first Monday in August. [IC 36-2-5-9]
- 19 Last date for board of commissioners to review "Statements for Salaries and Wages Proposed to be Paid Officers and Employees" and to make its recommendations to the county council. [IC 36-2-5-4(b)]
- 20 Last day to report and make payment of State and County Income Tax withheld in the month of July to Indiana Department of Revenue.

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**September**

- 5 Legal Holiday - Labor Day. [IC 1-1-9-1]
- 20 Last day to report and make payment of State and County Income Tax withheld in the month of August to Indiana Department of Revenue.
- 29-30 Last date to comply with provisions IC 36-2-5-11, "Each ordinance must be read on at least two (2) separate days before its final adoption."

**COUNTY SHERIFFS – INMATE TRUST AND JAIL COMMISSARY FUNDS**

IC 5-13-6-1 states that all public funds paid into the treasuries of the respective political subdivisions shall be deposited not later than the business day following the receipt of funds in one or more depositories in the name of the political subdivision by the officer having control of the funds.

The sheriff is the officer of the county who has control of the inmate trust and commissary funds. Therefore, it is the audit position of this department that inmate trust and jail commissary funds should be deposited in the depository no later than the next business day after they are received.

Also, IC 36-8-10-21 states that the sheriff, or his designee, shall deposit all money from commissary sales into the fund, which he shall keep in a depository designated under IC 5-13-8.

**TRAFFIC VIOLATIONS BUREAU**

Any court may establish a traffic violations bureau and appoint a violations clerk who shall serve under the direction and control of the court. (IC 34-28-5-7)

The violations clerk or deputy violations clerk shall:

1. accept:
  - A. written appearances;
  - B. waivers of trial;
  - C. admissions of violations;
  - D. declarations of nolo contendere for moving traffic violations;
  - E. payments of judgments (including costs) in traffic violations cases;
  - F. deferral agreements made under section 1 of this chapter (or IC 34-4-32-1 (f) before its repeal) and deferral program fees prescribed under IC 33-37-4-2 (e); and
  - G. community restitution or service agreements made under section 1(g) of this chapter,
2. issue receipts and account for any judgment (including costs) collected; and
3. pay the judgments (including costs) collected to the appropriate unit of government as provided by law. (IC 34-28-5-8)

The court shall:

1. designate the traffic violations within the authority of the violations clerk, but these violations may not include misdemeanors or felonies;
2. establish schedules, within limits prescribed by law, of the judgments to be imposed for the first violations, designating each violation specifically;
3. order that the schedule of judgments be prominently posted in the place where the fines are paid;

**TRAFFIC VIOLATIONS BUREAU (Continued)**

4. establish a procedure under which any violations clerk or deputy violations clerk shall accept, receipt, and account for all money tendered for designated traffic violation; and
5. dismiss deferred actions if a dismissal request is made under section 1 of this chapter (or IC 34-4-32-1 (f) before its repeal). (IC 34-28-5-9)

Any person charged with a traffic violation that is within the authority of the violations clerk may mail or deliver:

1. the amount of the judgment (including costs) indicated on the ticket; and
2. a signed:
  - A. admission of the violation; or
  - B. pleading of nolo contendere, if the action is for a moving traffic violation. (IC 34-28-5-11)

Before accepting a pleading admitting to a violation or entering a declaration of nolo contendere to a violation, the violations clerk or the officer writing the ticket shall inform the person that:

1. the person's signature to:
  - A. an admission of the violation; or
  - B. a pleading of nolo contendere; will have the same effect as a judgment of a court; and
2. the record of judgment will be sent to the commissioner of motor vehicles of Indiana or the state where the person received a license to drive. (IC 34-28-5-12)

**PARKS AND RECREATION – NONREVERTING CAPITAL FUND  
AND NONREVERTING OPERATING FUND**

I.C. 36-10-3-20 concerns establishment and use of a special nonreverting capital fund and states:

“(a) Upon the request of the board, the fiscal body of the unit may establish, by ordinance, a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the board's annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance. The fiscal body may not repeal the ordinance under suspension of the rules.”

I.C. 36-10-3-22 relates to charging fees for park services and authorized establishing either/or a special nonreverting operating fund or a special nonreverting capital fund and states:

“(a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(b) The unit's fiscal body may establish by ordinance, upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the unit's fiscal body; or

**PARKS AND RECREATION – NONREVERTING CAPITAL FUND  
AND NONREVERTING OPERATING FUND (Continued)**

(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the unit's fiscal body.

The unit's fiscal body shall designate the fund or funds into which the unit's fiscal officer (or county treasurer) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the unit's fiscal officer (or county treasurer) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the unit's general fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board."

Official Attorney General Opinion No. 54 of 1965 states there is no expressed authorization by the legislature to the park board to expend the activity fees in the special nonreverting fund without prior appropriation, and such money cannot be disbursed without a prior appropriation ordinance having been adopted according to law by the city council, county council or town council.

Legislative intent was for the park special nonreverting operating fund to pay for park and recreation activities that were to be conducted on a self-supporting basis. (For instance, such activities as horse shoe tournaments, swimming meets, little league, arts and crafts, and other similar activities.) The special nonreverting capital fund was to be funded from an item within the park and recreation board's annual budget with an appropriation made for "these specific purposes". It was never suggested such activities should be undertaken in an effort to relieve local tax levies.

Notwithstanding apparent legislative intent, with the passage of the aforementioned statutes along with the authority provided in I.C. 36-1-3, Home Rule, we feel the county council has the authority to create by ordinance as many funds as they feel necessary to operate their unit. When nonreverting funds, capital or operating, are established properly pursuant to the statutes mentioned, no audit exceptions will be taken by the State Board of Accounts.

There are three situations that should be considered when creating the nonreverting funds.

(1) On diverting revenues from the Park Operating Fund to the new nonreverting funds, this will reduce the revenue available for funding operating fund expenditures.

(2) All expenditures from the nonreverting operating and/or nonreverting capital funds must have been authorized by the enabling ordinance(s) and prior appropriation(s) must be available. The appropriations need not go before the Department of Local Government Finance (DLGF) but do need approval by "the board or the unit's fiscal body" for the nonreverting operating fund and the "unit's fiscal body" for the nonreverting capital fund.

(3) If the county appeals to DLGF for an excessive levy, the DLGF may insist that any balance or balances of such nonreverting funds be transferred to the park operating fund to any consideration of relief to the operating fund.

**CASH CHANGE FUND**

IC 36-1-8-2 states:

- “(a) The fiscal body of a political subdivision may permit any of its officers or employees having a duty to collect cash revenues to establish a cash change fund. Such a fund must be established by a warrant drawn on the appropriate fund of the political subdivision in favor of the officer or employee, in an amount determined by the fiscal body without need for appropriation to be made for it.
- (b) The officer or employee who establishes a cash change fund shall convert the warrant to cash, shall use it to make change when collecting cash revenues, and shall account for it in the same manner as is required for other funds of the political subdivision.
- (c) The fiscal body shall require the entire cash change fund to be returned to the appropriate fund whenever there is a change of the custodian of the fund or if the fund is no longer needed.”

A claim should be filed by the officer or employee designated by the fiscal body. The claim should contain a statement regarding the necessity for such fund together with the statutory reference (IC 36-1-8-2) authorizing its establishment. We do caution officials the amount advanced should not be greater than seems reasonably needed by the officer or employee.

**PETTY CASH FUND**

IC 36-1-8-3 states:

- “(a) The fiscal body of a political subdivision may establish a petty cash fund for any of its offices in a like manner to that prescribed by section 2 of this chapter.
- (b) The custodian of a petty cash fund shall use it to pay small or emergency items of operating expense. A receipt shall be taken for each expenditure and made from the fund.
- (c) The custodian of a petty cash fund shall periodically file a voucher, with all original receipts totaling the cash claimed expended being attached to it, so that the fund can be reimbursed for expenditures from it. Reimbursements must be approved and made in the same manner as is required for other expenditures of the political subdivision.”

A claim for expenditures must be prepared and filed for reimbursement to the petty cash fund. Such reimbursement shall be approved, allowed and paid in the same manner as other claims. If desired, for safeguarding funds and providing proper records, the petty cash fund may be maintained and accounted for through a separate bank account under jurisdiction of the responsible officer or employee with bank issued check forms used for all payments from the account. If this method is desired, it should have prior approval by ordinance of the fiscal body of the political subdivision.

**CONTRACTING IN EMERGENCY SITUATIONS**

Whenever an emergency (defined in IC 5-22 and 36-1-12 as a situation that could not be reasonably foreseen and that threatens the public health, welfare, or safety and requires immediate action) exists that requires a purchase of materials or the construction, alteration or repair of any public work the following statutes are to be followed:

Public Purchase (IC 5-22-10-4)

“A purchasing agent may make a special purchase when there exists **█** under emergency conditions, a threat to public health, welfare or safety.”

**CONTRACTING IN EMERGENCY SITUATIONS (Continued)**

Materials are defined to mean supplies, goods, machinery and equipment.

**Public Construction (IC 36-1-12-9)**

“ (a) The board, upon a declaration of emergency, may contract for a public work project without advertising for bids if bids or quotes are invited from at least two (2) persons known to deal in the public work required done.

(b) The minutes of the board must show the declaration of emergency and the names of the persons invited to bid or provide quotes.”

**PROPERTY REASSESSMENT FUND INVESTMENTS**

The county treasurer shall as provided by IC 6-1.1-4-28.5(c) invest any money accumulated in the property reassessment fund until the money is needed to pay reassessment expenses. Any interest received from the investment of this money shall be receipted into the property reassessment fund.

**SOIL AND WATER CONSERVATION DISTRICT EMPLOYEES**

IC 14-32-4-18 provides that employees of soil and water conservation districts shall be considered county employees in all counties except those containing a first class city. The employees will be eligible for and included in all fringe benefit programs for employees of that county.

An employee of a district whose position is funded entirely from sources outside the county in which the employee works solely on the basis of the funding of the employee’s position is not considered an employee of the county.

Since employees of soil and water districts shall be considered county employees this will require these positions to be included in the salary ordinance and for the county council to appropriate sufficient general fund monies to pay these salaries and fringe benefits.

This will require the filing of form 99, Payroll Schedule and Voucher with the county auditor covering the soil and water conservation district employees certified by their supervisor. The county auditor will include these employees in their records and reports in the same manner as other employees of the county.

There seems to be some confusion over whether the county should pay the expenses of soil and water conservation districts. IC 14-32-4-18 provides that an employee of the district is considered a county employee and permits payment of salaries and fringe benefits of soil and water conservation district employees. However, an employee of a district whose position is funded entirely from sources outside the county in which the employee works solely on the basis of the funding of the employee’s position is not considered an employee of the county. Except as stated in IC 14-32-5-8, all other operating expenses are to be paid by the district.

IC 14-32-5-8 states, “The fiscal body of each county that contains a district in whole or in part may (our emphasis) appropriate money for the use of the district serving the county from which the appropriation is to be made.”

County auditors are not to pay claims of any kind for soil and water conservation districts except payroll and fringe benefit claims (IC 14-32-4-18) and claims as per IC 14-32-5-8 provided in the appropriation by the county council.

**TRIAL RULE 60.5. MANDATE of FUNDS**

- (A) **Scope of mandate.** Courts shall limit their requests for funds to those which are reasonably necessary for the operation of the court or court-related functions. Mandate will not lie for extravagant, arbitrary or unwarranted expenditures nor for personal expenditures (e.g., personal telephone bills, bar association memberships, disciplinary fees).

Prior to issuing the order, the court shall meet with the mandated party to demonstrate the need for said funds. At any time in the process, the dispute may be submitted to mediation by agreement of the parties or by order of the Supreme Court or the special judge.

- (B) **Procedure.** Whenever a court, except the Supreme Court or the Court of Appeals, desires to order either a municipality, a political subdivision of the state, or an officer of either to appropriate or to pay unappropriated funds for the operation of the court or court-related functions, such court shall issue and cause to be served upon such municipality, political subdivision or officer an order to show cause why such appropriation or payment should not be made. Such order to show cause shall be captioned "Order for Mandate of Funds".

The matter shall be set for trial on the merits of such order to show cause unless the legislative body, the chief executive officer or the affected officer files a waiver in writing of such a trial and agrees to make such appropriation or payment.

The trial shall be without a jury, before a special judge of the court that made the order. There shall be no change of venue from the county or from the special judge appointed by the Supreme Court.

The court shall promptly notify the Supreme Court of the entry of such order to show cause and the Supreme Court shall then appoint as special judge an attorney who is not a current or former regular judge and who does not reside nor regularly practice law in the county issuing the Order of Mandate of Funds or in any county contiguous thereto.

If the appointed judge fails to qualify within seven [7] days after he has received notice of his appointment, the Supreme Court shall follow the same procedure until an appointed judge does properly qualify.

Unless expressly waived by the respondent in writing within thirty (30) days after the entering of the trial judge's decree, a decree or order mandating the payment of funds for the operation of the court or court-related functions shall be automatically reviewed by the Supreme Court. Promptly on expiration of such thirty (30) day period, the trial judge shall certify such decree together with either a stipulation of facts or an electronic transcription of the evidence to the Supreme Court.

No motion to correct error nor notice of appeal shall be filed. No mandate order for appropriation or payment of funds made by any court other than the Supreme Court or Court of Appeals shall direct that attorney fees be paid at a rate greater than the reasonable and customary hourly rate for an attorney in the county.

No mandate order shall be effective unless it is entered after trial as herein provided and until the order has been reviewed by the Supreme Court or such review is expressly waived as herein provided.

**DATA COLLECTION FORM INSTRUCTIONS**

When a county expends \$750,000 or more of federal awards (whether the award is direct or passed-through another entity) in a year the county is required to have a single audit conducted in accordance with the Federal Office of Management and Budget's Circular Uniform Guidance. This has been a requirement for a number of years and the State Board of Accounts has provided this audit when required.

**DATA COLLECTION FORM INSTRUCTIONS (Continued)**

As part of this requirement a reporting package along with a data collection form is submitted electronically to the Federal Audit Clearing House. Recently, it became a requirement that the county certify the data collection form through an electronic process, which is a verification that the data collection form and report posted contains the same information as presented at the exit conference. By certifying, the county is not agreeing with the comments within the auditor's report, just that the information is the same.

You do have the option to reject the certification. A rejection of the certification should be done in the circumstance where you have determined that the data collection form or the report contains an error. However, we would recommend that you contact the field supervisor or office supervisor before making a rejection to discuss the issue you have found.

This certification is important as the Clearing House does not recognize that the report is filed until all certifications are provided.

Late certification may also activate Uniform Guidance requirement whereby you as the auditee must be considered high risk and so require a more extensive audit process.

The prompt for certification comes from Internet Data Entry System (IDES) via the e-mail provided to our field examiners.

It is important that the appropriate person, along with the correct e-mail address be provided to our field examiners so that the certification may be made in a timely manner.

Our field examiner will request the contact person at the appropriate time during the audit.

It is up to the county as to who will be responsible for the certification, but it must be someone who will be present at the exit who has been made aware of the report and data collection form, often the county auditor.

At the exit, instructions along with user ID and password access will be provided to you by the field examiner so that the proper certification process may be completed.

**COURTS GRANTS**

The courts are separate from the counties, as the courts are part of the judicial branch of government and not departments of the county. However, the county provides the funding for the court's operation except for the salaries for the judges, which the county may supplement. The Clerk of the Circuit Court submits the budget for the court, approved by the Judge, to the County Council. Claims, including payroll for court employees, are submitted to the County Auditor for payment. The Judge has the authority to approve the claims of the court, but those claims must be advertised. See IC 36-2-6-3. The Clerk of the Circuit Court collects all court fees and costs for the courts. The Judges can apply for and receive State and Federal grants for court programs. However, those grants must be paid to the County and placed in a grant fund by the County Auditor. All disbursements from the grant funds should be based on claims submitted to the County Auditor. The Court should not have a bank account or hold funds from any source.

During an audit we will be looking at receipts for payments from the court to the county. All collections related to the courts should come through the Clerk or the Probation office as the Court should not have custody of any funds. Grant funds should be paid directly to the county. If there are disbursements from a county fund, such as a grant fund, to the Court, we will follow up on those disbursements as well, as all grant funds should be maintained on the county funds ledger.



### **CHANGE IN COMPENSATION FOR ELECTED OFFICIALS IN COUNTIES**

IC 36-2-5-13 provides that the compensation of an elected official of a county may not be changed during the year for which it is fixed. To illustrate, the salary ordinance approved in 2021 sets the compensation for salaries and wages in 2022 and is approved as part of the budget process. During 2022, the County Council can choose to give raises or bonuses to other employees for 2022 but elected officials would not be eligible for those raises or bonuses, because their 2022 compensation can't be changed during 2022.

In 2019 this statute was modified to include a definition of compensation for the application of this section. In IC 36-2-5-13(a) it defines compensation to mean "the total of all money paid to, or on behalf of, an elected county officer for performing duties as an elected officer, regardless of the source of the funds from which the money is paid." However, for the purpose of determining if a change in the compensation of an elected officer has occurred, certain payments are excluded from that determination. The payments not considered in that determination include (1) the payment of an insurance premium; (2) payments in recognition of longevity, professional certification or educational advancements that are separately identified on a salary ordinance and (3) the payment of a stipend or per diem allowed by statute.

An example of this would be a County elected official working the polls during the primary and being paid the per diem authorized by statute for that work. The payment of the per diem would not conflict with IC 36-2-5-13. An increase in an insurance premium paid by the County on behalf of an elected official would also not conflict with this statute. To clarify, these items are compensation, but they are not considered when determining if the compensation of an elected official has been changed.

### **OTHER INFORMATION – REGULATORY BASIS**

Auditing standards requires auditors to read and consider other information presented with the financial statements with regards to whether material inconsistencies exist. Per the SBOA Accounting and Financial Reporting Regulation Manual (Regulatory Manual) 'Other Information' includes the following schedules.

- Capital Asset Schedule
- Leases & Debt Schedule
- Accounts Payable/Accounts Receivable (AP/AR) Schedule

In accordance with AU-C section 720, in an audit we will be verifying the information underlying these schedules as it is reported in the Gateway Annual Financial Report (AFR). This information is required to be submitted correctly within the AFR, even if the unit chooses to not present these schedules with their financial statements. All applicable sections included in the AFR are required to be completed. Noncompliance with reporting accurate information underlying these schedules in the AFR, under IC 5-11-1-4(a), is considered substantial and impactful and will be included in an Audit Result and Comment (ARC) in the final report, in most situations.

Due to different reporting requirements between the Enhanced Regulatory and our current Regulatory basis, confusion exists amongst some officials about whether the schedules above were required to be completed. On March 28th, 2022, the Enhanced Regulatory implementation was delayed. We have noted that some officials have completed AFR sections with '0s' in the boxes or have left them blank.

If your county included '0s' in one of the schedules, the field examiners will inquire as to why only '0s' were reported. If the schedule is not applicable, and there were not any fiscal year-end accounts payable or receivable balances for example, no changes are needed.

If your county has incomplete schedules in previously submitted AFRs you can make changes to these schedules in Gateway before the next audit starts. If there are adjustments that need to be made before certifying financial statement information you will be able to make adjustments to your schedules during the audit.