

# CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES  
ISSUED BY STATE BOARD OF ACCOUNTS

JUNE 2016 – PART ONE

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## 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 the Indiana Association of Cities and Towns for handling the registrations at the recent school in Michigan City.

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 13 and Rising Sun on October 26. Registration information will be sent out by the League for the District meetings.

## NEW FLSA RULES

The Department of Labor (DOL) has issued new overtime rules. General information as well as information for State and Local Governments is available at [www.dol.gov/featured/overtime](http://www.dol.gov/featured/overtime). As in the past, FLSA does not apply to elected officials themselves, who are not subject to civil service laws. If you need further assistance with this issue, contact your human resource department, legal adviser, and/or the DOL.

## FRAUDULENT EMAIL SCAMS

Recently, we've been made aware of two instances where seemingly legitimate emails have been delivered to city Clerk-Treasurers requesting bank account information and/or payments. In both cases, the Clerk-Treasurer received an email appearing to be from the Mayor of their city.

In the first instance, a Clerk-Treasurer received an email that showed it was from the Mayor's email address. The email asked for the bank account routing number and balance in the account. The Clerk Treasurer approached the Mayor in person regarding this information. It was at this point they realized the email was bogus and an attempt to gain access to the city's bank account information.

In the other instance at a different city, the Mayor had been off work and was corresponding via email with city officials, including the Clerk-Treasurer. The Clerk-Treasurer received an email from what appeared to be the Mayor's email account indicating a contractor needed to be paid and money needed to be wired before the end of the banking day. As they had been corresponding via email prior to this, the Clerk-Treasurer did not immediately question the legitimacy of the email.

Please be alert to any emails requesting financial information or financial transactions, including ones that appear to be from persons you normally conduct business with. Be especially careful with any emails from your city Mayor. The method in these cases was to send phony emails that appear to come from a Mayor to a city fiscal officer – if anything requested seems contrary to your normal procedures or internal controls, contact the person you think is sending the email directly (in person or over the phone) and verify the request.

The above information was emailed to local officials in a memo from the State Examiner dated April 29, 2016.

**DUTIES OF SECRETARY OF POLICE PENSION FUNDS**

IC 36-8-6-3 sets out the duties and bond responsibilities of the secretary of the 1925 police pension fund.

"The secretary shall:

- (1) keep a true account of the proceedings of the local board and of the police department of the municipality when acting upon matters relating to the 1925 fund;
- (2) keep a correct statement of the accounts of each member with the fund;
- (3) collect and turn over to the treasurer of the local board all money belonging to the fund;
- (4) give the local board a monthly account of the secretary's acts and services as secretary; and
- (5) turn over to his the secretary's successor all books and papers pertaining to the office.

The secretary shall, in the manner prescribed by IC 5-4-1, execute a bond conditioned upon the faithful discharge of the secretary's duties.

The secretary and treasurer shall make complete and accurate reports of their trusts to the local board on the first Monday in February of each year, copies of which shall be filed with the municipal clerk. The books of the secretary and treasurer must be open at all times to examination by members of the local board.

Each member of the police department shall turn over to the secretary of the local board, within thirty (30) days after receiving it, all money and securities belonging to the 1925 fund that come into the secretary's hands."

IC 36-8-6-3(a) states the municipal fiscal officer is the treasurer.

**EXPENDITURES OF UTILITY FUNDS**

Expenses paid from utility funds should be directly related to the operation of the municipally owned utility. Expenditures for city and town operating costs should not be paid from utility funds. Furthermore, utility funds should not be used to pay for personal items. The cost of shared employees and equipment between a city or town and its utilities or between utilities should be prorated in a rational manner.

Establishment of a Cash Reserve Fund permits transfer of surplus utility funds to the city or town general fund. After appropriation, such transferred funds may then be used for any legal general fund purpose.

**CONTRIBUTIONS, DONATIONS, GIFTS**

Following is a brief list of procedures to be followed by city and town officials in receiving and accounting for monetary contributions, donations, or gifts received by the municipality. (The term "donation" in this article includes donations, contributions and gifts.)

1. Unrestricted donations are defined as those to which the donor has not attached terms, conditions, or purposes.
2. Restricted donations are defined as those to which the donor has attached terms, conditions, or purposes.
3. The governing body of the unit has the option and responsibility to either accept or reject, in writing, any proposed donation.
4. If the donation is a restricted donation, the board must agree, in writing, to the terms, conditions, or purposes attached to the proposed donation.
5. Restricted donations can only be accepted for purposes within the scope of general statutory authority.
6. Income or revenues in the form of tax distributions, tax receipts, fees, rentals, contractual payments, etc., are not to be considered donations.
7. Donations which are accepted must be handled in one of the two following methods:
  - A. Unrestricted donations shall be receipted into the applicable operating fund of the unit (i.e. city or town operating (general) fund; cemetery operating fund, park and recreation operating fund, airport operating fund, etc.). Expenditure of such donated revenue from the operating fund shall be made only after an appropriation has been provided for the purpose of the expenditure. Claims must be filed and approved in the regular legal manner.
  - B. A restricted donation shall be placed into a separate fund after such fund is established by the legislative body of the unit. Any appropriate descriptive name may be given the donation fund. The donation can be expended only for the purpose and under the terms and conditions agreed to on accepting the donation.

Pursuant to Attorney General Official Opinion No. 68 of 1961, no further appropriation is required for expenditure of a restricted donation for the designated purpose. Even though no further appropriation is required, claims must be filed and approved in the regular legal manner before disbursements can be made from the fund.
8. If the volume of restricted donations justifies it, a "control" fund may be established for all restricted donations. Separate, individual accounts would then be established to account for each restricted donation or each type of restricted donation. The total activities of the separate accounts -- receipts disbursements, balances -- should be reflected on the control fund.

**CONTRIBUTIONS, DONATIONS, GIFTS – (Continued)**

9. Income from investments of restricted donations should be receipted into the same fund in which the principal of the donation has been receipted, provided it is to be used for the same purpose as the principal. However, if under the terms of the trust, the principal must be held in trust in perpetuity and only the income used by the governmental unit, there should be two funds established. One fund should be designated as "trust interest." In this situation, expenditures would only be permitted from the Trust Interest (Income) Fund".
10. The municipality's fiscal officer should be the custodian of the unit's funds and securities.

**STATE EXAMINER DIRECTIVE 2015-2 – ENGAGEMENT OF PRIVATE EXAMINERS**

On April 7, 2016, the State Examiner issued amended Directive 2015-2 regarding the engagement of private examiners.

You can read the entire Directive at [http://www.in.gov/sboa/files/Directive\\_2015-2.pdf](http://www.in.gov/sboa/files/Directive_2015-2.pdf).

**STATE EXAMINER DIRECTIVE 2016-1 – GENERALLY ACCEPTED ACCOUNTING PRINCIPLES REPORTING**

On May 27, 2016, the State Examiner issued Directive 2016-1 in regards to IC 5-11-1-4, which discusses the timeline for cities and towns to file annual financial reports in accordance with Generally Accepted Accounting Principles (GAAP).

All cities and towns that issue bonds and meet the applicable population thresholds will be required to file GAAP reports and financial statements on the following schedule:

<u>Bond Issuance Year</u>	<u>Population</u>	<u>GAAP Reporting</u>
2019	Greater than 250,000	by March 1, 2019
2020	Greater than 250,000	by February 29, 2020
2021	Greater than 100,000	by March 1, 2021
2022	Greater than 75,000	by March 1, 2022

You can read the entire Directive at [http://www.in.gov/sboa/files/Directive\\_2016-1.pdf](http://www.in.gov/sboa/files/Directive_2016-1.pdf).

**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 1920, then the estimated cost of the asset should be reported as \$6,080.00.

$$\$76,000.00 \times .08 = \$6,080.00$$

TABLE OF COST  
INDEXES 1913 to 2015

<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>	<u>Year</u>	<u>Index</u>
2015	1.00	1985	.45	1961	.13	1937	.06
2014	.99	1984	.44	1960	.12	1936	.06
2013	.98	1983	.42	1959	.12	1935	.06
2012	.97	1982	.41	1958	.12	1934	.06
2011	.95	1981	.38	1957	.12	1933	.05
2010	.92	1980	.35	1956	.11	1932	.06
2009	.91	1979	.31	1955	.11	1931	.06
2008	.91	1978	.28	1954	.11	1930	.07
2007	.87	1977	.26	1953	.11	1929	.07
2006	.85	1976	.24	1952	.11	1928	.07
2005	.82	1975	.23	1951	.11	1927	.07
2004	.80	1974	.21	1950	.10	1926	.07
2003	.78	1973	.19	1949	.10	1925	.07
2002	.76	1972	.18	1948	.10	1924	.07
2001	.75	1971	.17	1947	.09	1923	.07
2000	.73	1970	.16	1946	.08	1922	.07
1999	.70	1969	.16	1945	.08	1921	.08
1998	.69	1968	.15	1944	.07	1920	.08
1997	.68	1967	.14	1943	.07	1919	.07
1996	.66	1966	.14	1942	.07	1918	.06
1995	.64	1965	.13	1941	.06	1917	.05
1994	.63	1964	.13	1940	.06	1916	.05
1993	.61	1963	.13	1939	.06	1915	.04
1992	.59	1962	.13	1938	.06	1914	.04
1991	.57					1913	.04
1990	.55						
1989	.52						
1988	.50						
1987	.48						
1986	.46						

### **BANK DEPOSITS BY REMOTE CAPTURE**

A governmental unit contacted us recently to report that a warrant had cleared their bank account two years ago and then cleared the bank a second time in 2016. From the information we were provided, when the original check was issued two years ago, the citizen receiving the check used a remote capture feature to deposit the check into his personal account – similar to taking a picture with his phone and his bank processed the transaction. In 2016, the citizen found the original paper check from two years ago and did not remember depositing it before. So the citizen took the paper check to the bank and deposited it. The bank processed the check and the transaction again cleared the governmental unit's bank account. When the unit discovered this check cleared the bank a second time, they contacted the bank and requested their account be reimbursed. The bank reported that they were not liable for the check clearing twice.

We checked with the Treasurer of State's office and they confirmed that the bank is *not* responsible if a check clears the bank more than once. The Treasurer of State's office recommended using positive pay procedures with the local unit's bank account to prevent such occurrences in the future. If a check does clear the bank twice, the governmental unit would have to pursue collection against the check payee to recover their funds.

With new technology where an individual can use their smartphone to remote deposit checks as well as the increase in remote capture by various vendors, this has become a more prevalent problem. Each unit should have controls in place to safeguard their accounts. Positive pay procedures for warrants, electronic funds transfers, or wire transfers, along with careful monitoring of the unit's daily bank transactions, would help to mitigate this risk. If you have any questions or concerns regarding this occurring with your bank account, we'd recommend you contact your bank and discuss what options are available.

The above information was emailed to local officials in a memo from the State Examiner dated April 29, 2016.

### **BUY MONEY**

The following procedures shall be followed if a municipality wishes to obtain an appropriation and make expenditures for buy money or payments to informants:

1. Under IC 36-1-3 an ordinance shall be passed allowing this type of program and associated expenditures;
2. An appropriation for such purpose must be obtained in the manner authorized by state statutes;
3. Petty cash fund procedures are to be followed as authorized by IC 36-1-8-3; and
4. A minimum documentation procedure must be followed, similar to either:
  - A. "*Guidelines for the Expenditure of Confidential Funds*," published by the U.S. Department of Criminal Justice.
  - B. "*Guidelines for Obtaining and Accounting for Confidential Funds Used in Support of Criminal Investigations*," (Revised S.O.P. PR – INV-0017), by the Indiana State Police Department.



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### MEMORANDUM

TO: County Auditors, City Controllers, and Clerk-Treasurers

FROM: Paul D Joyce, CPA, State Examiner  
State Board of Accounts (SBOA)

Courtney Schaafsma, Commissioner  
Department of Local Government Finance (DLGF)

Brandye Hendrickson, Commissioner  
Department of Transportation (INDOT)

Kent Abernathy, Commissioner  
Bureau of Motor Vehicles (BMV)

RE: Local Match for the Local Road and Bridge Matching Grant Fund

DATE: June 9, 2016

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This joint memorandum is intended to address three issues regarding the local match required for a grant from the Local Road and Bridge Matching Grant Fund, established by HEA 1001-2016. The three issues addressed are as follows:

1. Use of Existing Road Funds for Matching Grants
  - a. ISSUE: Whether a local unit may use existing road funds (i.e., including motor vehicle highway (MVH) tax revenues, local road and street (LRS) tax revenues, wheel and surtax revenue, and major moves funds) to cover the local match required by IC 8-23-30-3(2).
  - b. ANSWER: SBOA has determined that these existing road funds may be used as local matching funds in applying for grants from the Local Road and Bridge Matching Grant Fund if the funds are transferred to the unit's rainy day fund in accordance with the requirements set forth by SBOA.

**Local Match for the Local Road and Bridge Matching Grant Fund Memo - Continue**

2. Use of Increased Wheel and Surtax Revenues for Matching Grants
  - a. ISSUE: Whether a local unit that adopts an ordinance before July 1, 2016 increasing (counties) or imposing (municipalities) a wheel tax or motor vehicle excise surtax after July 1, 2016 may use the revenues generated by that increased/new tax to cover the local match required by IC 8-23-30-3(2).
  - b. ANSWER: INDOT has determined that revenues from a wheel tax or motor vehicle excise surtax increased (counties) or imposed (municipalities) after July 1, 2016 by an ordinance adopted before July 1, 2016 may be used as local matching funds in applying for grants from the Local Road and Bridge Matching Grant Fund.
3. County Wheel and Surtax Ordinances Adopted Before July 1, 2016
  - a. ISSUE: Whether the BMV will accept ordinances adopted before July 1, 2016 that increase a county's wheel tax or surtax rates in excess of the maximum rates allowed before HEA 1001-2016 takes effect on July 1, 2016.
  - b. ANSWER: BMV will accept ordinances adopted before July 1, 2016 that increase county wheel tax or surtax rates beginning on January 1, 2017 pursuant to the new maximum rates authorized by HEA 1001-2016.

**ISSUE #1: Use of Existing Road Funds for Matching Grants**

*This issue is governed by the accounting rules and policies administered by SBOA. Any questions concerning this issue should be directed to SBOA.*

**ISSUE: Whether a local unit may use existing road funds (i.e., including motor vehicle highway (MVH) tax revenues, local road and street (LRS) tax revenues, wheel and surtax revenue, and major moves funds) to cover the local match required by IC 8-23-30-3(2).**

This memorandum supersedes the prior memorandum issued by State Board of Accounts on May 24, 2016 with respect to this issue.

Under IC 8-23-30-3, a local unit is eligible to apply to INDOT for a grant from the Local Road and Bridge Matching Grant Fund if the unit:

- (1) Uses a transportation asset management plan approved by the department; and
- (2) Commits to a local match from one (1) or more of the following:
  - (A) Revenue attributable to an increase, after June 30, 2016, in the local unit's motor vehicle excise surtax or wheel tax rate under IC 6-3.5.
  - (B) Money received by the local unit as a special distribution of local income taxes under IC 6-3.6-9-17.
  - (C) Money in the local unit's rainy day fund under IC 36-1-8-5.1.



**Local Match for the Local Road and Bridge Matching Grant Fund Memo - Continue**

It is the audit position of SBOA that the restricted uses of other road funding that come from distributions for motor vehicle highway (MVH), local road and street (LRS), wheel, surtax and major moves funds generally meet the purposes of the Local Road and Bridge Matching Grant Fund. **Therefore existing MVH, LRS, wheel tax and surtax, and major moves funds may be used as matching funds for grants from the Local Road and Bridge Matching Grant Fund.** If existing funds are used, those funds shall be transferred to the local unit's Rainy Day Fund in accordance with the following:

## (A) LRS Funds, Wheel and Surtax Funds

LRS funds and existing wheel tax and surtax funds are statutorily restricted to certain uses but do not have statutory provisions requiring the balance to remain in the fund. These funds may be transferred to the Rainy Day Fund if the unit's rainy day ordinance restricts these monies to their uses as provided under their originating statutes. The units may then use these funds to satisfy the local match to the Local Road and Bridge Matching Grant Fund

The wheel tax and surtax funds are commingled with MVH distributions within the MVH Fund. The unit will need to identify on a reasonable basis those wheel tax and surtax monies available for transfer. The unit shall keep available for audit the documentation and methodology used to determine the amount of transfer. Once the unit identifies the amount available, it may transfer this amount to a rainy day restricted fund.

To ensure that these monies remain restricted and identifiable, counties shall use:  
Fund 1300 Rainy Day Restricted - Wheel and Sur Tax for wheel and sur tax transfers  
and;  
Fund 1301 Rainy Day Restricted - Local Road and Street for local road and street transfers.

Cities and towns shall use:  
Fund 260 Rainy Day Restricted - Wheel and Sur Tax for wheel and sur tax transfers  
and;  
Fund 261 Rainy Day Restricted - Local Road and Street for local road and street transfers.

## (B) MVH and Major Moves Funds

MVH funds and major moves funds are statutorily restricted to certain uses and require that the balances remain in the fund. However, monies from these funds may be transferred to the Rainy Day Fund if:

- (1) Monies from these funds are appropriated from their respective funds for a Transportation Asset Management Plan,
- (2) the amount appropriated is identified and directly committed within the plan (this would serve as encumbrance of these funds from one budget year to the next),

**Local Match for the Local Road and Bridge Matching Grant Fund Memo - Continue**

- (3) the unit's rainy day ordinance restricts these monies as committed match for the grant, and;
- (4) the unit's rainy day ordinance specifies that any committed unused balance at the end of the grant is to be returned to the originating fund.

To ensure that these monies remain restricted and identifiable, counties shall use:  
Fund 1302 Rainy Day Restricted - Major Moves for major moves transfers and;  
Fund 1303 Rainy Day Restricted - MVH for MVH transfers.

Cities and towns shall use:

Fund 262 Rainy Day Restricted - Major Moves for major moves transfers and;  
Fund 263 Rainy Day Restricted - MVH for MVH transfers.

The grant itself should be treated as any other grant by setting up a separate state grant fund entitled Local Road and Bridge Matching Grant Fund. Any matches to the grant should be transferred to this fund.

If you have any questions regarding accounting for the funds specific to counties, please contact Lori Rogers or Shannon Lopez at SBOA at (317) 232-2512. If you have any questions regarding accounting for the funds specific to cities and towns, please contact Susan Gordon or Todd Caldwell at SBOA at (317) 232-2513. If you have any questions regarding accounting for these funds as part of a local unit's budget, please contact Dan Jones at DLGF at (317) 232-0651 or [djones@dlgf.in.gov](mailto:djones@dlgf.in.gov).

**ISSUE #2: Use of Increased Wheel and Surtax Revenues for Matching Grants**

*This issue is governed by INDOT through its administration of the Local Road and Bridge Matching Grant Fund. Any questions concerning this issue should be directed to INDOT.*

**ISSUE: Whether a local unit that adopts an ordinance before July 1, 2016 increasing (counties) or imposing (municipalities) a wheel tax or motor vehicle excise surtax after July 1, 2016 may use the revenues generated by that increased/new tax to cover the local match required by IC 8-23-30-3(2).**

Beginning July 1, 2016, HEA 1001-2016 increases the maximum rates counties may adopt for county wheel taxes and county motor vehicle excise surtaxes, if the county has an approved transportation asset management plan approved by INDOT. Similarly, beginning March 10, 2016, HEA 1001-2016 allows municipalities that meet certain conditions to implement a municipal option wheel tax and motor vehicle excise surtax.

However, the effective date of any local wheel tax or surtax depends on the date the ordinance establishing the tax is adopted. Ind. Code §§ 6-3.5-4-5 (increased county surtax), 6-3.5-5-7(a) (increased county wheel tax), 6-3.5-10-3 (new municipal surtax), 6-3.5-11-5 (new municipal wheel tax). Rates established by an ordinance adopted after December 31 but before July 1 are effective the following January 1 (e.g., ordinances adopted before July 1, 2016 take effect January 1, 2017). Rates established by an ordinance adopted after June 30 are effective on

**Local Match for the Local Road and Bridge Matching Grant Fund Memo - Continue**

January 1 of the year following the year in which the ordinance was adopted (e.g., ordinances adopted after June 30, 2016 take effect January 1, 2018).

Under the Local Road and Bridge Matching Fund, a local unit may use “[r]evenue attributable to an increase, after June 30, 2016, in the local unit’s motor vehicle excise surtax or wheel tax rate under IC 6-3.5” to satisfy its local matching requirement when applying for a grant from the Fund. Ind. Code § 8-23-30-3(2)(A). INDOT has determined that the reference to “increase” in IC 8-23-30-3(2)(A) refers to the effective date of the tax and not the date on which the ordinance imposing the rate is adopted. **A municipality or county, which adopts an ordinance before July 1, 2016 increasing (counties) or imposing (municipalities) a wheel tax or surtax taking effect on January 1, 2017, may use the funds generated by the increased/new tax to satisfy the statute’s local matching requirement.** The timing of the adoption of the ordinance must be consistent with BMV guidance.

If you have any questions regarding applying for grants from the Local Road and Bridge Matching Fund, please contact INDOT at <http://www.in.gov/indot/2390.htm>.

**ISSUE #3: County Wheel and Surtax Ordinances Adopted Before July 1, 2016**

*This issue is governed by BMV through its administration of county wheel taxes and motor vehicle excise surtaxes. Any questions concerning this issue should be directed to BMV.*

**ISSUE: Whether the BMV will accept ordinances adopted before July 1, 2016 that increase a county’s wheel tax or surtax rates in excess of the maximum rates allowed before HEA 1001-2016 takes effect on July 1, 2016.**

Effective July 1, 2016, HEA 1001-2016 increases the maximum rates counties may adopt for county wheel taxes and county motor vehicle excise surtaxes, if the county has an approved transportation asset management plan approved by INDOT. Under IC 6-3.5-4-5 (increased county surtax) and IC 6-3.5-5-7(a) (increased county wheel tax), counties that intend to adopt rates in excess of the current statutory maximums and make those new rates effective beginning on January 1, 2017 must adopt an ordinance implementing those new rates before July 1, 2016. **To accommodate this need, the BMV will accept ordinances reflecting wheel tax and/or surtax rates in excess of the previous statutory maximums for counties that have an approved asset management plan so long as the ordinances are adopted on or before June 30, 2016. Upon receipt, BMV will review a submitted ordinance to ensure compliance and will begin collecting, and subsequently distributing, the increased taxes beginning January 1, 2017.**

If you have any questions regarding the BMV’s administration of wheel tax and surtax ordinances, please contact Chris Russell at BMV at (317) 234-1485 or [chrussell@bmv.in.gov](mailto:chrussell@bmv.in.gov).