

CITIES AND TOWNS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES
ISSUED BY STATE BOARD OF ACCOUNTS

JUNE 2017

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2017 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 2017 public laws may be found on the General Assembly website at 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.

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Public Law 6-2017 – Senate Enrolled Act 456 – Effective July 1, 2017 War Memorials

Adds and amends sections of IC 10-18-2, IC 10-18-3, IC 10-18-4, and IC 10-18-5 - Provides that the fiscal body of a city, county, or township may by ordinance or resolution authorize the sale or donation of a war memorial to certain organizations exempt from federal income taxation. Requires an organization acquiring a war memorial to continue to operate and maintain the war memorial. Provides that ownership of the war memorial reverts to the city, county, or township if the acquiring organization determines that it is unable to continue operating the war memorial, is dissolved, or otherwise ceases to exist.

Public Law 21-2017 – House Enrolled Act 1272 – Effective July 1, 2017 Local Government Matters

Amends IC 5-3-1, IC 36-9-23-33, and IC 36-9-25-11.7. Provides that if a newspaper or locality newspaper does not refuse to publish a timely notice, but subsequently fails to publish it, notice is nonetheless sufficient if the notice is timely posted:

- (1) in printed form, in three prominent places in the political subdivision; or
- (2) on the political subdivision's Internet web site.

Increases the amount of debt that a municipal sewage works or sanitation department can write off as uncollectable.

**Public Law 28-2017 – House Enrolled Act 1295 – Effective July 1, 2017
Disposal of Real Property**

Amends IC 36-1-11. Allows the fiscal body of a municipality to adopt an ordinance to increase the minimum appraised value of real property for which the fiscal body must approve a sale of the property. (Current law requires the fiscal body to approve a sale of real property if the appraised value is \$50,000 or more.) Allows the fiscal body of a political subdivision to adopt an ordinance to increase the maximum assessed value of real property for which the political subdivision may negotiate a sale of the real property to an abutting landowner instead of having the property appraised and sold by public bidding. (Current law allows a political subdivision to negotiate with the abutting property owner if the assessed value of the real property is less than \$15,000.)

**Public Law 40-2017 – Senate Enrolled Act 46 – Effective July 1, 2017
Various Pension Matters**

Adds and Amends numerous sections in IC 5-10, IC 5-10.2, IC 5-10.3, IC 5-10.4, IC 5-10.5, IC 10-12, and IC 36-8 - Provides that death benefits paid to beneficiaries of members of the following funds who die in the line of duty are to be paid from the special death benefit fund instead of the pension relief fund:

- (1) The 1925 police pension fund.
- (2) The 1937 firefighters' fund.
- (3) The 1953 police pension fund (Indianapolis).
- (4) The 1977 police officers' and firefighters' pension and disability fund.

Allows a member of PERF to do the following with the money credited to the member in a PERF annuity savings account, in any combination:

- (1) Retain and continue to invest all or part of the money in the annuity savings account.
- (2) Receive one or more distributions of all or part of the money in the annuity savings account.
- (3) Obtain an annuity with all or part of the money in the annuity savings account.

**Public Law 44-2017 – Senate Enrolled Act 64 – Effective Various Dates
Code Revision Corrections**

Amends various sections of the Indiana Code; resolves various nontechnical conflicts and problems not suitable for resolution in the annual technical corrections bill, including:

- (1) a statute that has been both added and repealed;
- (2) ambiguous language;
- (3) incorrect references; and
- (4) results that must not have been intended.

**Public Law 47-2017 – Senate Enrolled Act 80 – Effective July 1, 2017
Deferred Retirement Option Plan Disability Benefit**

Amends IC 36-8-8.5-16.5 - Revises, for a member of the 1925 police pension fund, the 1937 firefighters' pension fund, the 1953 police pension fund, or the 1977 police officers' and firefighters' pension and disability fund who retires after June 30, 2017, because of a disability at least 12 months after the date the member enters the deferred retirement option plan (DROP), the calculation of the retirement benefit paid to the member. Allows a member who retired after January 1, 2015, and before July 1, 2017, because of a disability at least 12 months after the date the member entered the DROP to elect to have the member's retirement benefit recalculated under the new provision.

**Public Law 52-2017 – Senate Enrolled Act 152 – Effective July 1, 2017
Local Redevelopment**

Amends portions of IC 4-6-12 and adds IC 36-7-14-19 - Provides that a redevelopment commission may purchase property that is for sale at an auction or that has a purchase price of not more than \$25,000 without first obtaining two independent appraisals. Provides that a redevelopment commission may purchase property that is blighted, unsafe, abandoned, foreclosed, or structurally damaged. Repeals the tax sale blight registry, and makes conforming amendments. Amends the homeowner protection unit account statute to recognize that certain court fees are deposited under current law in that account.

**Public Law 74-2017 – Senate Enrolled Act 442 – Effective July 1, 2017
Various Election Matters**

Adds and amends numerous sections of IC 3-5, IC 3-6, IC 3-7, IC 3-8, IC 3-10, IC 3-11, IC 3-11.5, IC 3-12, IC 3-13, IC 5-9, IC 20-23, IC 33-33, IC 33-35, and IC 36-5 - Specifies the allocation of municipal and special election administration expenses among a county and the municipalities in the county in vote center counties. Specifies the extended deadline for taking an action or making a filing when a government office is closed. Provides that a felony conviction that has been pardoned, reversed, vacated, set aside, or expunged does not disqualify a person from holding elected office. Provides that a declaration of candidacy is not invalid if a candidate is unable to state the ward in which the candidate resides. Specifies the ways in which a candidate for a small town office or multiple candidates for an at-large town council seat may be nominated.

**Public Law 85-2017 – House Enrolled Act 1181 – Effective 4-20-17
Technical Corrections**

Resolves technical problems in the Indiana Code. Provides that the technical corrections bill may be referred to as the "technical corrections bill of the 2017 general assembly". Renames the Alcohol and Drug Services Program User Fee to the Alcohol Drug Services Program Fee (IC 33-37-8-8(b)); Renames the Highway Work Zone Fee to the Highway Worksite Zone Fee (IC 33-37-5-14). (This bill makes multiple technical corrections to the Indiana Code with various effective dates.)

**Public Law 110-2017 – Senate Enrolled Act 310 – Effective July 1, 2017
Land Banks**

Adds IC 6-1.1-46 and IC 6-1.1-47 and amends numerous sections of IC 36-1-8 and IC 36-7-38. Authorizes a third class city to which the unsafe building law applies to establish a land bank to manage and improve the marketability of distressed real property in the city. Establishes memberships on the land bank board of a third class city.

**Public Law 135-2017 – House Enrolled Act 1117 – Effective July 1, 2017
Performance Bond Requirements**

Amends IC 36-7-4-709. Provides that a local governmental unit and a land developer may agree to the partial release of a performance bond or other surety required of the land developer to ensure the completion of certain unfinished improvements and installations in a subdivision on a more frequent basis than an annual basis. (Under current law, a performance bond or other surety may be partially released on an annual basis, which would continue to be permitted.) (This bill also amends sections related to a state educational institution with other effective dates.)

**Public Law 176-2017 – House Enrolled Act 1031 – Effective July 1, 2017
State Examiner Findings**

Adds IC 5-11-5-1.5. Specifies requirements for corrective action when audited entities fail to comply with certain guidelines or laws. Requires an audited entity to file a corrective action plan following findings of noncompliance in two consecutive examination reports. Specifies actions that the audit committee may take if an audited entity fails to comply with a corrective action plan.

**Public Law 180-2017 – House Enrolled Act 1555 – Effective July 1, 2017
Police Reserve Officers**

Amends IC 5-2-1, IC 5-10-10-4 and IC 21-14-1-6, Amends and Adds sections in IC 36-8-3. Provides that town police reserve officers are eligible for a line of duty death benefit from the special death benefit fund. Adds town police reserve officers to the tuition and fee exemption for the children and surviving spouse of a public safety officer killed in the line of duty. Provides that:

- (1) after December 31, 2017, a county, city, or town shall furnish without charge to a police reserve officer (officer) who is injured or contracts an illness in the course of or as the result of the performance of duties as an officer all necessary physician, surgical, hospital, and nursing services and supplies, and that this obligation supersedes any obligations that another medical insurance carrier has to pay the officer's medical expenses;
- (2) after December 31, 2017, a county, city, or town shall provide to an officer who is unable to pursue the officer's usual vocation as the result of an injury or illness occurring in the course of or as the result of the performance of duties as an officer a weekly amount equal to the Indiana minimum wage computed on the basis of a 40 hour work week for a maximum of 260 weeks; and
- (3) a county, city, or town may meet its obligations by purchasing policies of group insurance, establishing a plan of self-insurance, or participating in the medical treatment and burial expense provisions of the worker's compensation and occupational diseases laws.

**Public Law 197-2017 – House Enrolled Act 1431 - Effective July 1, 2017
Executive Sessions and Open Records**

Amends IC 5-14-1.5. Provides that a governing body may admit to an executive session of the governing body an individual who has been elected to the governing body but has not been sworn in as a member of the governing body. Allows a state educational institution to:

- (1) meet in executive session to discuss certain matters concerning establishment of a collaborative relationship or venture to advance the research, engagement, or education mission of the state educational institution; and
- (2) withhold records from public disclosure that are created while the negotiations are in progress.

Amends the tabulation of a provision regarding negotiations of certain state and local government entities to reflect that all of the listed entities negotiate with industrial, research, or commercial prospects.

**Public Law 204-2017 – House Enrolled Act 1622 – Effective July 1, 2017
Record of City Votes**

Amends IC 36-3-4-8 and IC 36-4-6-9. Requires a consolidated city or a second class city that maintains an Internet web site to post on the web site the roll call votes of the legislative body within three business days after:

- (1) the date the roll call vote is taken if the city's software is able to generate a roll call vote; and
- (2) if the city's software is not able to generate a roll call vote, the date the city's legislative body is first able to approve the minutes of the meeting at which the roll call vote was taken.

Requires the city to maintain the roll call vote information on the web site for four years.

**Public Law 211-2017 – Senate Enrolled Act 348 – Effective July 1, 2017
Regulation of Signs**

Adds IC 36-1-3-11 and amends IC 36-7-4-1109 - Provides that an ordinance or a regulation of a political subdivision relating to the number or size of signs is unenforceable beginning 60 days before an election and ending at the beginning of the sixth day after the election. Provides that the statute does not prohibit a political subdivision from enforcing an ordinance or regulation relating to the number or size of signs at any time if necessary to ensure public safety. Provides that a zoning ordinance relating to signs is considered to contain a provision that permits the substitution of the copy on a sign regardless of whether the original and new copy is commercial or noncommercial.

**Public Law 218-2017 – House Enrolled Act 1002 – Effective Various Dates
Transportation Infrastructure Funding**

Amends various section of the Indiana Code. Eliminates the sales tax on the sale of special fuel. Establishes the special transportation flexibility fund. Provides the following for gasoline use tax collections for state fiscal year 2020 and each state fiscal year thereafter:

- (1) 14.286% of the collections shall be deposited in the motor vehicle highway account.
- (2) 21.429% of the collections shall be deposited in the local road and bridge matching grant fund.
- (3) A percentage of the gasoline use tax collections shall be deposited in the state general fund in each state fiscal year before state fiscal year 2025.
- (4) In state fiscal year 2020 through state fiscal year 2023, a percentage of the gasoline use tax collections shall be deposited in the special transportation flexibility fund.
- (5) In state fiscal year 2020 and thereafter, a percentage of the gasoline use tax collections shall be deposited in the state highway fund.

Changes the deadline for the adoption and notification of county and municipal vehicle excise and wheel tax ordinances. Provides for a one-time fuel tax rate increase using a multiyear index factor based on the last time the particular fuel tax rate was increased and the current fuel tax rate per gallon. (Gasoline tax is currently \$0.18, special fuel tax is currently \$0.16, and motor carrier surcharge tax is currently \$0.11.) Limits the one-time increase to \$0.10 per gallon. Provides for an annual rate increase in fuel tax rates based on an annual index factor. Limits the annual rate increase based on the annual index factor to \$0.01 per gallon. Provides that the last index factor adjustment to the fuel tax rates is July 1, 2024. Increases the aviation fuel excise tax by \$0.10 per gallon and transfers the increased revenue to the airport development grant fund for airport capital improvement matching grants. Increases alternative fuel decal fees by 50%. Specifies that the motor carrier fuel surcharge tax must be paid on special fuel that is not an alternative fuel at the time of purchase (the same time the special fuel tax is paid), instead of being entirely paid using a quarterly return. Imposes a motor carrier fuel surcharge inventory tax on motor fuel held in storage and offered for sale to motor carriers on the date the surcharge tax rate changes. Eliminates from the distribution of the gasoline and special fuel taxes:

- (1) the \$0.01 going to the state highway fund;
- (2) the \$0.01 going to counties, cities, and towns; and
- (3) the \$25,000,000 special distribution allocation distributions.

Establishes a \$15 transportation infrastructure improvement fee that applies to the registration of all motor vehicles except trailers, semitrailers, non-motive recreational vehicles, special machinery, vehicles registered as military vehicles, vehicles registered as collector vehicles, motor driven cycles, trucks, tractors used with a semitrailer, and for-hire buses with a declared gross weight greater than 26,000 pounds. Increases annual registration fees for certain motor vehicles with a declared gross weight that equals or exceeds 26,000 pounds. Requires a person who registers an electric vehicle to pay a supplemental registration fee of \$150 with an increase every five years based on an index factor. Requires a person who registers a hybrid vehicle to pay a supplemental registration fee of \$50 with an increase every five years based on an index factor. Provides that the percentage of the amounts distributed to the state and to the local units from the motor vehicle highway account changes incrementally from 53% for the state and 47% for the local units under current law to 60% for the state and 40% for the local units after June 30, 2022. Eliminates the authority for cities and towns to use distributions from the motor vehicle highway account for:

- (1) the painting of structures and objects; and
- (2) law enforcement.

**Public Law 218-2017 – House Enrolled Act 1002 – Effective Various Dates - Continued
Transportation Infrastructure Funding**

Requires counties, cities, and towns to use at least 50% of the distributions from the motor vehicle highway account for the construction, reconstruction, and maintenance of highways. Repeals restrictions on when a tolling project can be undertaken. Provides that before the governor, the Indiana department of transportation (INDOT), the Indiana Finance Authority (IFA), or an operator may enter into an agreement for the financing, construction, maintenance, or operation of a toll road project, the budget committee must first review the proposed agreement. Provides that neither the IFA nor INDOT may issue a request for proposals for a public-private agreement that would authorize an operator to impose tolls unless the budget committee has reviewed the request for proposals. Requires INDOT to seek a Federal Highway Administration waiver to toll interstate highways. Limits the first toll lanes under the waiver to certain interstate highways. Provides for a public comment period and requires replies to the public comments for a toll road project by INDOT or a tollway project carried out using a public private partnership. Imposes other duties on INDOT. Amends the assessment procedures for motor carrier civil penalties. Establishes the weigh-in-motion pilot program. Makes various changes to the local road and bridge matching grant program. Allows INDOT to approve certain railroad crossing projects, and authorizes the IFA to finance an approved project subject to a maximum annual debt service limit of \$10,000,000. Authorizes the IFA to take certain actions in the event a public-private agreement is terminated. Annually appropriates \$250,000 to INDOT for the local technical assistance program to develop and maintain a centralized electronic statewide asset management data base. Provides that the owner of a semitrailer permanently registered in Indiana does not pay an annual registration renewal fee. Makes various changes to the transportation funding exchange program between the state and counties and municipalities. Adds various study requirements.

**Public Law 222-2017 – House Enrolled Act 1101 – Effective July 1, 2017
Adjustment or Movement of Advertising Signs**

Amends and Adds sections of IC 8-23-20. Provides that the owner or operator of a conforming outdoor advertising sign may adjust the height of the sign or relocate the sign due to changes that would obstruct the sign's visibility. Provides that a municipality may (if necessary) provide for the elevation or relocation by ordinance for a special exception to its zoning ordinance. Makes the municipality responsible for payment of just and full compensation to an owner, if the municipality does not provide a special exception to its zoning ordinance. Establishes guidelines for the size and viewing angle of an elevated or relocated sign. Requires the rules of the department of transportation to provide for certain fees that may be charged regarding outdoor signs.

**Public Law 223-2017 – House Enrolled Act 1394 – Effective July 1, 2017
Waiver of Local Occupational License Fees**

Adds 36-1-3-11.2. Requires a city or town to waive as applicable all or part of the occupational and professional license fees and taxes imposed by the unit for the initial issuance and reinstatement of an occupational or professional license for applicants who are veterans, on active duty with the military or national guard, or indigent.

**Public Law 244-2017 – House Enrolled Act 1009 – Effective July 1, 2017
Bond Issuance Requirements**

Adds IC 5-1-11.5-4, Amends IC 5-11-1-4, and Removes IC 5-11-1-4(d). Provides that a municipality that has a population of more than 75,000 may not issue bonds after June 30, 2020, unless the municipality has for its preceding budget year prepared an annual financial report using the modified accrual basis of accounting in accordance with generally accepted accounting principles. Allows the state examiner to waive these requirements if the state examiner determines that a waiver is in the best interest of the municipality. Replaces the provisions in current law (which would be phased in during 2017-2020) concerning annual financial report requirements that must be met before a municipality may issue bonds. Provides that effective July 1, 2017, a municipality may not issue any bonds unless it has filed its annual financial report with the state examiner for the preceding fiscal year. (This bill also amends multiple sections of the Indiana Code regarding School Financial Management with various effective dates.)

**Public Law 246-2017 – House Enrolled Act 1043 – Effective July 1, 2017
Referendum and Remonstrance Process**

Amends IC 6-1.1-20. Increases the threshold used for purposes of determining whether a capital project is a controlled project as follows:

- (1) In the case of an ordinance or resolution adopted after December 31, 2017, and before January 1, 2019, making a preliminary determination to issue bonds or to enter into a lease for the project, the threshold is increased from \$2,000,000 to \$5,000,000.
- (2) In the case of an ordinance or resolution adopted after December 31, 2018, making a preliminary determination to issue bonds or enter into a lease for the project, the threshold is increased by applying the assessed value growth quotient for the year to the threshold amount determined for the preceding year.

Specifies that a capital project is also a controlled project if the cost of the project will exceed:

- (1) 1% of the total gross assessed value of property within the political subdivision, if that total gross assessed value is more than \$100,000,000; or
- (2) \$1,000,000, if the total gross assessed value of property within the political subdivision is not more than \$100,000,000.

Increases the thresholds used for applying the petition and remonstrance process and referendum process as follows:

- (1) In the case of an ordinance or resolution adopted after December 31, 2017, and before January 1, 2019, making a preliminary determination to issue bonds or to enter into a lease for the project, the threshold is increased from \$12,000,000 to \$15,000,000 for any civil unit project.
- (2) In the case of an ordinance or resolution adopted after December 31, 2018, making a preliminary determination to issue bonds or enter into a lease for the project, the threshold is increased by applying the assessed value growth quotient for the year to the threshold amount determined for the preceding year.

Provides that a civil unit project is also subject to the referendum process if the cost of the project will exceed:

- (1) 1% of the total gross assessed value of property within the political subdivision, if that total gross assessed value is more than \$100,000,000; or
- (2) \$1,000,000, if the total gross assessed value of property within the political subdivision is not more than \$100,000,000.

**Public Law 246-2017 – House Enrolled Act 1043 – Effective July 1, 2017 - Continued
Referendum and Remonstrance Process**

Provides that a controlled project for which a political subdivision makes a preliminary determination to issue bonds or enter into a lease is subject to the referendum process if the sum of:

- (1) the cost of that controlled project; plus
- (2) the costs of all other controlled projects for which the political subdivision has previously adopted within the preceding 365 days an ordinance or resolution making a preliminary determination to issue bonds or enter into a lease for those other controlled projects; exceeds \$25,000,000.

Requires that a political subdivision's notice of the preliminary determination to issue bonds or enter into a lease for a controlled project must also include information concerning the estimated amount of the political subdivision's debt service levy and rate that will result during the following 10 years if the political subdivision issues the bonds or enters into the lease, after also considering any changes that will occur to the debt service levy and rate during that period on account of any outstanding bonds or lease obligations that will mature or terminate. Provides that a petition objecting that a political subdivision has divided a controlled project in order to avoid the requirements of the petition and remonstrance process or the referendum process must be filed with the department of local government finance (DLGF) not more than 10 days after the political subdivision gives notice of the political subdivision's determination to issue bonds or enter into leases for the capital project. Specifies that if the DLGF determines that a political subdivision divided a controlled project in order to avoid the referendum requirements and the political subdivision continues to desire to proceed with the project, the political subdivision may appeal the determination of the DLGF to the Indiana board of tax review. Specifies that a political subdivision shall be considered to have divided a capital project in order to avoid the requirements of the petition and remonstrance process or the referendum process if the result of one or more of the subprojects cannot reasonably be considered an independently desirable end in itself without reference to another capital project.

Requires a political subdivision to:

- (1) conduct at least two public hearings on a preliminary determination concerning a controlled project (rather than one hearing under current law); and
- (2) make certain information available to the public at each of the public hearings.

Provides that if a referendum for a controlled project is defeated, another referendum may not be held earlier than 700 days after the date of the first referendum (rather than 350 days under current law). Specifies that the 350 day limit applies if a sufficient petition requesting that limit is submitted by property owners or voters. Applies to a referendum that takes place after June 30, 2017. (This bill also amends multiple sections of the IC 20.)

Public Law 247-2017 – House Enrolled Act 1129 – Sections Effective 1-1-2017 and July 1, 2017**Local Income Tax and State Sales Tax Matters**

Amends IC 6-3.6 and various sections of the Indiana Code. Adds law enforcement training to the permitted uses of the local income tax. Removes the requirement that the department of local government finance (DLGF) prescribe the form for notices, ordinances, and resolutions that may be adopted under the local income tax law. Removes the DLGF's duty to prescribe the hearing requirements and procedures to be used for submitting a notice and vote results on ordinances and adopting and submitting an ordinance or a resolution and replaces it with the general requirements for hearings and procedures. Requires the DLGF to prescribe the procedures to be used by the adopting body or governmental entity for submissions to the DLGF. Requires the DLGF to notify the submitting entity within thirty (30) days of submission as to whether the DLGF has received the necessary information. Provides that imposing a new tax or changing an existing tax is not effective until the DLGF notifies the adopting body or governmental entity that the DLGF has received the required information. Specifies that an adopting body must include in its allocation ordinance whether it is allocating additional revenue to funding for a public safety answering point (PSAP). Provides that unit level allocations must be based on total property taxes being imposed by the unit for the year preceding the distribution year. Makes technical changes to the local income tax laws. Corrects conflicts that involve references to the local income tax.

**Public Law 255-2017 – House Enrolled Act 1450 – Effective Various Dates
Property Tax Matters**

Amends IC 5-14-3.5-3.5, IC 36-7-14, IC 36-8-19 and other sections of the Indiana Code. Provides that a political subdivision must upload a copy of a contract that the political subdivision enters into after June 30, 2016, to the Indiana transparency Internet web site if the total cost of the contract exceeds \$50,000. Provides that a public utility that fails to timely file a statement concerning the property owned or used by the public utility on an assessment date shall remit the penalty to the department of state revenue. Provides that both the executive of a political subdivision and a majority of the members of the fiscal body of a political subdivision may independently request technical assistance from the distressed unit appeal board in helping prevent the political subdivision from becoming a distressed political subdivision. Authorizes, but does not require, the DLGF to adopt rules to limit the basis of payment for services provided by professionals who work on capital projects to a fee for service agreement. Provides that the DLGF may adopt a rule after June 30, 2016, and before September 1, 2017, that concerns or includes market segmentation and affects assessments for the January 1, 2018, assessment date. Provides that a redevelopment commission's annual report to the unit that created the redevelopment commission must include both a list of parcels of real property and the depreciable personal property of designated taxpayers in the redevelopment area. Provides that a fire protection district may be a participating unit in a fire protection territory. Provides that a resolution by a provider unit to withdraw from a fire protection territory is effective on January 1 of the year following the year in which the resolution is adopted. Provides that if the provider unit of a fire protection territory withdraws, a majority of the remaining units must agree on which unit is to become the successor provider unit. Specifies the definition of "public funds" for purposes of public purchasing and public works projects.

**Public Law 256-2017 – House Enrolled Act 1491 – Effective Various Dates
Various Motor Vehicle Law Amendments**

Amends IC 6-3.5-10, effective July 1, 2017. Renames the county motor vehicle excise surtax to be the county vehicle excise tax. Renames the municipal motor vehicle license excise surtax to be the municipal vehicle excise tax. Renames the motor vehicle license excise tax to be the vehicle excise tax. (This bill makes multiple amendments to the Indiana Code regarding the Motor Vehicles with various effective dates.)

**Public Law 261-2017 – Senate Enrolled Act 213 – Effective April 30, 2017
Wireless Support Structures**

Adds and amends numerous sections in IC 8-1-32.3 - Makes several changes to the statute concerning wireless support structures, including amends the definition of "utility pole" to: (A) mean a structure that is designed or used for certain specified purposes (versus existing statutory language defining the term to mean a structure that is designed and used for those specified purposes); and (B) include structures designed or used to provide traffic control or signage. Also provides that with respect to the construction, placement, or use of small cell facilities and associated supporting structures, a permit authority may prohibit the placement of a new utility pole or wireless support structure in a right-of-way within an area that is designated before May 1, 2017, strictly for underground or buried utilities, if certain conditions are met. Provides that the placement of a small cell facility and an associated supporting structure in the public right-of-way is considered a permitted use and is exempt from local zoning review if the height of the supporting structure does not exceed the greater of: (A) 50 feet measured from grade; or (B) the height of any utility pole in place on July 1, 2017, and within 500 feet of the proposed small cell facility, plus 10 feet. Several other provisions are included in this bill.

**Public Law 269-2017 – House Enrolled Act 1470 – Effective July 1, 2017
Government Information**

Adds IC 2-5-1.7, IC 4-3-26, IC 5-14-3.3 Amends IC 2-6-1.5-5, IC 4-3-22. Provides standards for the access of the legislative services agency (LSA) to information held by a state or local governmental entity. Establishes the position of state data officer and a management performance hub (MPH) in the office of management and budget (OMB). Recommends that governmental entities store data in an open, machine readable format. Requires governmental entities that are required by law to submit data for publication on a governmental Internet web site (web site) to submit the data on a prescribed form. Limits fees that may be charged by a web site. Provides immunity for accidental disclosure of confidential data on a web site if the data was posted in reliance on the determination by the data owner that the data was not confidential.

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Other Legislation of Interest to Municipalities

Public Law 10-2017 - HEA 1023 – Effective July 1, 2017 - Public Safety Matters

Public Law 15-2017 - HEA 1189 – Effective July 1, 2018 - Crime Reporting Requirements – Local Law Enforcement

Public Law 18-2017 - HEA 1268 – Effective March, 29-2017 - Traffic Amnesty

Other Legislation of Interest to Municipalities - Continued

Public Law 32-2017 - HEA 1536 – Effective July 1, 2017 - Tax Sales

Public Law 33-2017 - HEA1626 – Effective July 1, 2017 - Study of Universal Service for Telecommunications

Public Law 36-2017 – SEA 2: Joint agency matters.

Public Law 72-2017 – SEA 421: Above ground storage tanks

Public Law 88-2017 - HEA 1344 – Effective April 20, 2017 - Lead and Arsenic Soil Contamination in East Chicago

Public 90-2017 – HEA 1370 – Effective July 1, 2017 - Completion of Training by Volunteer Firefighters

Public Law 91-2017 – HEA 1519 – Effective July 1, 2017 - Infrastructure Development Zone Utility Service.

Public Law 92-2017 - HEA 1537 – Effective July 1, 2017 - Pension Thirteenth Checks

Public Law 114-2017 – SEA 346: Donation of certain local funds to a foundation

Public Law 140-2017 - HEA 1171 – Effective July 1, 2017 - Disciplinary Process for Firefighters

Public Law 148-2017 - HEA 1318 – Effective April 24, 2017 and July 1, 2017 - Insurance Matters

Public Law 161-2017 - HEA 1617 – Effective July 1, 2017 - 1977 Fund Disability Benefits

Public Law 178-2017 - HEA 1286 – Effective July 1, 2018 - Regional Development Authorities – Eminent Domain

Public Law 198-2017 - HEA 1438 – Effective Various Dates - Syringe Exchange Programs

Public Law 210-2017 – SEA 312: Use of criminal history in hiring

Public Law 233-2017 – SEA 416: Infrastructure assistance fund

Public Law 248-2017 - HEA 1144 – Effective July 1, 2017 - South Shore Rail Transit – NWIRDA

Public Law 268-2017 - HEA 1350 – Effective May 2, 2017 and July 1, 2017 - Gaming

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 Florence.

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 19 and Nashville on October 25. Registration information will be sent out by the League for the District meetings.

AUDIT COSTS CHARGED TO FEDERAL GRANTS

If you receive Federal grants/awards that SBOA audits in accordance with the Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (commonly called "Uniform Guidance"), a portion of the associated audit costs may be allocated to some or all grants.

Title 2 of the U.S. *Code of Federal Regulations*, Part 200, Section 200.425 states:

“§200.425 Audit services.

(a) A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), as implemented by requirements of this part, are allowable. However, the following audit costs are unallowable:

- (1) Any costs when audits required by the Single Audit Act and Subpart F—Audit Requirements of this part have not been conducted or have been conducted but not in accordance therewith; and
 - (2) Any costs of auditing a non-Federal entity that is exempted from having an audit conducted under the Single Audit Act and Subpart F—Audit Requirements of this part because its expenditures under Federal awards are less than \$750,000 during the non-Federal entity's fiscal year.
- (b) The costs of a financial statement audit of a non-Federal entity that does not currently have a Federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.
- (c) Pass-through entities may charge Federal awards for the cost of agreed-upon-procedures engagements to monitor subrecipients (in accordance with Subpart D—Post Federal Award Requirements of this part, §§200.330 Subrecipient and contractor determinations through 200.332 Fixed Amount Subawards) who are exempted from the requirements of the Single Audit Act and Subpart F—Audit Requirements of this part. This cost is allowable only if the agreed-upon-procedures engagements are:

- (1) Conducted in accordance with GAGAS attestation standards;
- (2) Paid for and arranged by the pass-through entity; and
- (3) Limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.

We'd recommend checking with your grantor agency or agencies during the grant application process to see if any audit costs would be allowable for your specific grants. If allowed, a portion of audit costs may be able to be included into the budget for the grant.

ELECTED OFFICIALS – LEAVE POLICY

We have received questions concerning the authority (or need) for elected officials to be included in the municipality's vacation leave, sick leave, death leave, or other such leave policy.

Our audit position is that an elected official's compensation goes with the office. This means that the elected official receives his (or her) salary as long as the office to which the official was elected performs the duties and responsibilities of this office. Whether the elected official personally does the work, whether the elected official personally maintains office hours, or whether the elected official shows up at the office has no bearing on the official's right to be compensated. Keep in mind this relates only to elected officials. The ghost employee statute, IC 35-44.1-1-3, prohibits payment to other city or town employees if they did not properly perform city or town duties assigned and maintain hours as directed by the proper governing body.

In those few instances where elected officials choose to be included in such employee benefit policy (and were included in the authorizing ordinance), the officials must maintain proper attendance records (the same as all other city and town employees) which shall clearly disclose days worked, days missed, type of leave taken, etc. This decision certainly cannot be made just prior to the close of the official's term.

A city or town council is authorized to "grant vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance" to "employees of the political subdivision" pursuant to IC 5-10-6-1. The term "employees" is not defined.

The foregoing information should not be construed as a legal opinion, but rather as the position we would take during an audit. Please seek the advice of the city or town attorney in regard to compensation matters.

UNPAID PARKING TICKET FINES

If it appears from the records of a court that has jurisdiction to enforce ordinances that regulate parking violations that three (3) judgments concerning a motor vehicle have not been paid before the deadlines established by a statute, an ordinance, or a court order, the clerk of the court shall send a notice to the person who is the registered owner of the motor vehicle. The notice must inform the person of the following:

1. That the clerk will send a referral to the bureau of motor vehicles if the judgments are not paid within thirty (30) days after the notice was mailed.
2. That the referral will result in the suspension of the motor vehicle's registration if judgments are not paid.

A clerk may send a referral to the bureau of motor vehicles if the judgments are not paid not later than thirty (30) days after a notice was mailed. The referral must include the following:

1. Any information known or available to the clerk concerning the following of the motor vehicle:
 - A. The license plate number and year of registration
 - B. The name of the owner.
2. The date on which each of the violations occurred.
3. The law enforcement agencies responsible for the parking citations.
4. The date when the notice required under IC 9-30-11-3 was mailed.
5. The seal of the clerk. (IC 9-30-11-3 and IC 9-30-11-4)

If the city or town enforces parking violations through an ordinance violations bureau, then the city or town attorney would be required to bring action to enforce nonpayment of parking fines in county, city or town court before the provisions of IC 9-30-11 could be used.

ANNUAL CONFERENCE QUESTIONS and ANSWERS

The following is a summation of questions submitted during the League's Annual Conference. The questions addressed below do not include any related to the new MVH requirements; please look for answers to those questions in a separate memo.

Question #1 Does Community Crossing Matching Grant count as federal expenditures?

Answer #1 No. The Community Crossing Grant funds are State dollars.

Question #2 Will SBOA require additional documentation for audit related to Community Crossing Grant above and beyond INDOT close out requirements as referred to during the INDOT presentation (at the Annual Conference)?

Answer #2 At the recent Annual Conference regarding closeout, INDOT stated they will require copies of the final bill and proof of payment within 30 days of final payment and under-runs have to be paid back within 30 days of being invoiced. SBOA requirements for grant disbursements will be the same as with any other city/town disbursements; we will need to see supporting documentation of all grant claims paid, not just the final bill.

Question #3 Can you go over the different levels of obtaining bids, written or otherwise, as the price for an item or project goes up?

Answer #3 Public Purchase [cost of an item IC 5-22]:
Cost of item < \$50,000 – follow locally adopted purchasing policy
Cost of item \$50,000 to \$150,000 – invite quotes from 3 persons/vendors
Cost of item > \$150,000 – seek competitive bidding

Public Works [cost of a project IC 36-1-12]:
Project costing < \$150,000 – invite quotes by mail from 3 person/vendors
Project costing > \$150,000 – publish notice calling for sealed proposals

Question #4 Internal Controls – What are we required to do for 2017?

Answer #4 The legislative body of your city/town is to adopt (if they haven't already) the minimum internal control standards and ensure personnel have received training as per IC 5-11-1-27(g). Internal controls should be established in writing and implemented as described in the *Uniform Internal Control Standards for Indiana Political Subdivisions* manual. For further guidance, please contact us and/or visit the Internal Control page on our website: www.in.gov/sboa/5072.htm

Question #5 Pool funds – We may run out of pool money in our pool fund due to many repairs. Can we borrow money from another fund and pay it back when we get our fall tax distribution?

Answer #5 Yes – if the provisions of IC 36-1-8-4 are met.

Question #6 If our budget is adopted prior to Nov 1st there will not be a penalty if it is not submitted within 48 hours (assuming it is submitted by Nov. 3rd)?

Answer #6 We inquired of DLGF and below is the response from Dan Jones, DLGF Assistant Budget Director:

“Civil taxing units are to submit their budgets within two days of adoption. However, the only time the DLGF enforces the 48 hours is when the budgets are adopted on November 1st. On November 3rd, the DLGF will close Gateway for access to 2018 budget files so the Department can begin work on the final budgets within each county.”

Question #7 If employees start at 7:00 and they punch in at 6:45, do you have to pay them the ¼ hour?

Can you still pay Comp time versus overtime pay with a 5 person police department?

Answer #7 On the issue regarding start time – we would refer you to the Indiana Department of Labor for guidance on if you would have to pay the quarter hour prior to their established start time.

On the comp pay versus overtime, we would refer you to the U.S. Department of Labor for guidance. The law governing public safety officers is different than for other employees.

Question #8 Considering that the fees to record and release liens are increasing, effective July 1, 2017, what would SBOA suggest that cities and towns should do about paying the release fees on liens that were recorded before the new legislation was made?

Answer #8 We are unaware of any provisions to pay anything less than the statutorily established release fee at the time of release. This means the city/town will be out the difference between the fee when the lien was recorded and the increased fee for releasing after July 1, 2017.

Question #9 We do not refund the meter deposits for our electric and water utility unless the customer moves out of town. Is this correct?

Answer #9 We would audit to your local ordinance establishing the electric and water meter deposits.

MEMORANDUMS ISSUED

Attached is the State Board of Accounts memorandum dated May 19, 2017 regarding the Community Crossing Grant.

Attached is the State Board of Accounts memorandum dated June 12, 2017 regarding the Motor Vehicle Highway Fund. (Questions received by the State Board of Accounts on accounting issues related to the MVH Fund will be compiled and addressed in a future memorandum.)

Attached is the State Board of Accounts memorandum dated June 12, 2017 regarding Court Costs/Fee Changes – Amendment.

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.



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TO: County Auditors, City Controllers, and Clerk-Treasurers
FROM: Paul D. Joyce, CPA, State Examiner
RE: Local Match for the Local Road and Bridge Matching Grant Fund
DATE: May 19, 2017

This memorandum addresses two amendments to the statutes regarding the local match for the Community Crossings Grant through Indiana Department of Transportation (INDOT). First, the legislature amended the sources for the local match in IC 8-23-30-3, retroactive to March 23, 2016. Second, the legislature amended the amount of the local match required in IC 8-23-30-6, effective July 1, 2017. Answers to commonly-asked questions and the names of persons to contact for additional information are included at the end of this memorandum.

This memorandum supersedes information regarding, "Issue #1: Use of Existing Road Funds for Matching Grants," contained in the June 9, 2016 memorandum from the State Board of Accounts (SBOA), Department of Local Government Finance (DLGF), Department of Transportation (INDOT), and Bureau of Motor Vehicles (BMV). Also, this supersedes all other previous instruction from the SBOA related to the use of existing road funds for matching grants.

1. Sources and Uses of Local Match for Community Crossings Grant

Retroactive to March 23, 2016, the legislature amended IC 8-23-30-3 to allow local units of government to use "any money the unit is authorized to use for a local road or bridge project" as the local match for the Community Crossings Grant as well as money received as a special LIT distribution and money in the rainy day fund. IC 8-23-30-3, as amended, states:

"A local unit may apply to the department for a grant from the fund for an eligible project if the local unit: (1) uses a transportation asset management plan approved by the department; and (2) commits to a local match by using one (1) or more of the following:

- (A) Any money the unit is authorized to use for a local road or bridge project.
- (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.

The application must be in the form and manner prescribed by the department."

For Counties, the restricted portion of the special distribution of local income taxes under IC 6-3.6-9-17 should be accounted for in Fund Number 1229. For Cities and Towns, the restricted portion of the special distribution of local income taxes under IC 6-3.6-9-17 should be accounted for in Fund Number 257.

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.

2. Amount of Local Match Required for Community Crossings Grant

Effective July 1, 2017, Indiana Code 8-23-30-6 is amended to read as follows:

"If the department approves a grant to a local unit under this chapter, the required local matching amount by the local unit is equal to the following applicable percentage of the total cost of the eligible project:

(1) For a county applicant, the following:

(A) Fifty percent (50%), if the county has a population greater than or equal to fifty thousand (50,000).

(B) Twenty-five percent (25%), if the county has a population of less than fifty thousand (50,000).

(2) For a city or town applicant, the following:

(A) Fifty percent (50%), if the city or town has a population greater than or equal to ten thousand (10,000).

(B) Twenty-five percent (25%), if the city or town has a population of less than ten thousand (10,000)."

3. Commonly-Asked Questions

Question: Is it still necessary to transfer funds to the Rainy Day Fund or a Restricted Rainy Day Fund in order for those funds to be considered as match for the Community Crossings Grant?

It is the position of the SBOA that it is no longer necessary to transfer committed match money into the Rainy Day Fund or a Rainy Day Restricted fund. Committed match may be transferred directly into the Local Road and Bridge Matching Grant Fund.

Question: What happens to the balances in the Restricted Rainy Day Funds established as a result of the June 9, 2016 memorandum?

Based on the previous language of the statute and the June 9, 2016 memorandum, many local units of government established Rainy Day Restricted funds to account for transfers from LRS, Wheel and Surtax Funds, MVH, and Major Moves.

As previously stated, it is no longer necessary to transfer committed match money into the Rainy Day Restricted funds. Under the current statutory language, any money the unit is authorized to use for a local road or bridge project may be transferred directly into the Local Road and Bridge Matching Grant Fund.

Any balance remaining in a Restricted Rainy Day Fund should be -

1. Transferred to the Local Road and Bridge Matching Grant Fund for use as match; or
2. Returned to the originating fund.

Question: Is it still necessary to transfer committed match funds to the Local Road and Bridge Matching Fund?

Yes, the grant from INDOT 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.

Question: Can the Rainy Day Fund provide a temporary loan to the Wheel and Surtax Fund (or any other fund) to provide match for the Community Crossings Grant?

The SBOA will not take audit exception to a temporary loan from the Rainy Day Fund to the Wheel and Surtax Fund (or any other applicable fund) as long as the requirements of IC 36-1-8-4 are followed.

IC 36-1-8-4 states:

" (a) The fiscal body of a political subdivision may, by ordinance or resolution, permit the transfer of a prescribed amount, for a prescribed period, to a fund in need of money for cash flow purposes from another fund of the political subdivision if all these conditions are met:

(1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.

(2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.

(3) Except as provided in subsection (b), the prescribed period must end during the budget year of the year in which the transfer occurs.

- (4) The amount transferred must be returned to the other fund at the end of the prescribed period.
- (5) Only revenues derived from the levying and collection of property taxes or special taxes or from operation of the political subdivision may be included in the amount transferred.
- (b) If the fiscal body of a political subdivision determines that an emergency exists that requires an extension of the prescribed period of a transfer under this section, the prescribed period may be extended for not more than six (6) months beyond the budget year of the year in which the transfer occurs if the fiscal body does the following:
- (1) Passes an ordinance or a resolution that contains the following:
 - (A) A statement that the fiscal body has determined that an emergency exists.
 - (B) A brief description of the grounds for the emergency.
 - (C) The date the loan will be repaid that is not more than six (6) months beyond the budget year in which the transfer occurs.
 - (2) Immediately forwards the ordinance or resolution to the state board of accounts and the department of local government finance."

Question: If the project costs exceed the total amount of the grant award plus committed match, may the additional costs be paid from other funds of the unit?

It is the audit position of the SBOA that costs incurred which exceed the grant award plus committed match may be paid from other appropriated funds of the unit that may be used for local roads and bridges.

Question: Can a local unit of government borrow money from outside sources to provide a match?

The SBOA will not take audit exception to the use of borrowed funds as match as long as the funds were borrowed in accordance with applicable statutory requirements and are appropriated for such a purpose.

Question: Can Cumulative Bridge Fund money be used as match and transferred to the Local Road and Bridge Matching Fund?

IC 8-23-30-3, as amended, allows local units of government to use "any money the unit is authorized to use for a local road or bridge project" as the local match for the Community Crossings Grant, which includes money in the Cumulative Bridge Fund. Cumulative Bridge funds are statutorily restricted to certain uses, namely the cost of construction, maintenance, and repair of bridges, approaches, and grade separations as well as bridge inspection and safety ratings. To ensure that these monies remain restricted and identifiable to the statutory uses of the cumulative bridge fund, a higher level of tracking will be necessary. Documentation must be available to support that the cumulative bridge funds were used for the purposes set forth in IC 8-16-3 or returned to the cumulative bridge fund.

Question: Must the entire amount of committed match be transferred to the Local Road and Bridge Matching Grant Fund at the time the award is received from INDOT, or may the committed match be transferred to the Local Road and Bridge Matching Fund as invoices become due?

The SBOA will not take audit exception to the timing of the transfer of committed match to the Local Road and Bridge Matching Grant Fund as long as the requirements of the grant are satisfied.

Question: When is an appropriation required?

An appropriation is required for all disbursements from the Local Road and Bridge Matching Grant Fund. This appropriation must be approved by DLGF. The SBOA will not take audit exception to a transfer of funds to the Local Road and Bridge Matching Grant Fund without appropriation. Contact DLGF for the required appropriation procedures.

Question: Is an ordinance or resolution required to make a transfer to the Local Road and Bridge Matching Fund?

Any transfer of funds to the Local Road and Bridge Matching Fund should be made after the passage of an ordinance or a resolution by the legislative body specifying the amount of the transfer, the funds involved, the date of the transfer, and the purpose of the transfer.

4. Contact Information

If you have any questions regarding the accounting for the funds specific to counties, please contact SBOA Directors Lori Rogers or Shannon Lopez at (317) 232-2512 or Counties@sboa.in.gov. If you have any questions regarding accounting for funds specific to cities and towns, please contact SBOA Directors Todd Caldwell or Susan Gordon at (317) 232-2513 or Cities.Towns@sboa.in.gov. 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.



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MEMORANDUM

TO: County Auditors, City Controllers, and Clerk-Treasurers
FROM: Paul D. Joyce, CPA, State Examiner
DATE: June 12, 2017
RE: Use of MVH Fund pursuant to Public Law 218-2017 (HEA 1002)

This memorandum addresses changes to the use of the Motor Vehicle Highway Fund distribution pursuant to Public Law 218-2017 (HEA 1002), effective July 1, 2017.

Requirement to Use at Least Fifty Percent (50%) for Construction, Reconstruction, and Maintenance

IC 8-14-1-4(b) is added to the Indiana Code, which states:

"For funds distributed to a county from the motor vehicle highway account after June 30, 2017, the county shall use at least fifty percent (50%) of the money for the construction, reconstruction, and maintenance of the county's highways."

IC 8-14-1-5(c) is added to the Indiana Code, which states:

"For funds distributed to a city or town from the motor vehicle highway account after June 30, 2017, the city or town shall use at least fifty percent (50%) of the money for the construction, reconstruction, and maintenance of the city's or town's highways."

Definitions

To determine the type of work that qualifies as construction, reconstruction, and maintenance, please consult the following definitions contained in IC 8-14-1-1:

Construction "The term 'construction' means the planning, supervising, inspecting, actual building, draining, and all expenses incidental to the construction of a highway."

Reconstruction "The term 'reconstruction' means a widening or a rebuilding of the highway or any portion thereof."

Maintenance "The term 'maintenance' when used in reference to cities, towns, and counties as applied to that part of the highway other than bridges, means the constant making of needed repairs, to preserve a smooth surfaced highway, adequately drained, marked and guarded by protective structures for public safety and, as to bridges, means the constant making of needed repairs to preserve a smooth surfaced highway thereon and the safety and preservation of the bridge and its approaches, together with the substructure and superstructure thereof; and such term also means and includes the acquisition and use, in any manner, of all needed equipment, fuel, materials, and supplies essential and incident thereto."

Highways "The term 'highways' includes roadway, rights of way, bridges, drainage structures, signs, guard rails, protective structures in connection with highways, drains, culverts, and bridges and the substructure and superstructure of bridges and approaches thereto and streets and alleys of cities or towns."

The question has been asked if personnel expense may be included as part of the 50%. The State Board of Accounts will not take audit exception to the payment of personnel expense that can be tied directly to one of these defined expenditure types through the use of a prescribed or approved form and adequate supporting documentation.

Use of MVH Fund pursuant to Public Law 218-2017 (HEA 1002)
 June 12, 2017
 Page Two

Supporting Documentation

To ensure that fifty percent of the MVH distribution is restricted and identifiable to the statutory uses of construction, reconstruction, and maintenance, a higher level of tracking will be necessary. Documentation must be available to support that at least fifty percent of the MVH distribution is used for the restricted purposes set forth in IC 8-14-1.

Prescribed Forms

The SBOA has prescribed forms in place to identify disbursements from the MVH fund that are related to the construction, reconstruction, and maintenance of highways. Samples of and instructions for the prescribed forms listed below are attached to this memorandum.

For information on the use of an exact electronic replica in lieu of a prescribed form or for the use of an alternate approved form, please see Chapter 1 of the Accounting and Uniform Compliance Guidelines Manual for Cities and Towns or Accounting and Uniform Compliance Guidelines Manual for Counties.

City and Town Prescribed Forms

221A (2017)	MVH Fund Cost Distribution Ledger – Allocated Costs
221B (2017)	MVH Fund Cost Distribution Ledger – Unallocated Costs
221C (2017)	MVH Fund Cost Distribution Ledger - Equipment Operating Expense
222 (2017)	MVH Fund Employee's Time Allocation Record
223 (2017)	MVH Fund Equipment Depreciation Ledger
224A (2017)	MVH Fund Perpetual Inventory Record
224B (2017)	MVH Fund Inventory Receiving Receipt
224C (2017)	MVH Fund Report of Materials and Supplies Issued

County Prescribed Forms

Highway Form 28A (2017)	MVH Fund Cost Distribution Ledger – Allocated Costs
Highway Form 28B (2017)	MVH Fund Cost Distribution Ledger – Unallocated Costs
Highway Form 28C (2017)	MVH Fund Cost Distribution Ledger - Equipment Operating Expense
Highway Form 29 (2017)	MVH Fund Employee's Time Allocation Record
Highway Form 30 (2017)	MVH Fund Equipment Depreciation Ledger
Highway Form 31A (2017)	MVH Fund Perpetual Inventory Record
Highway Form 31B (2017)	MVH Fund Inventory Receiving Receipt
Highway Form 31C (2017)	MVH Fund Report of Materials and Supplies Issued

Other Changes to IC 8-14-1-5 for Cities and Towns Only

Effective July 1, 2017, Public Law 218-2017 (HEA 1002) deletes IC 8-14-1-5(b) which allowed a certain percentage of MVH Funds to be used for law enforcement purposes.

Effective July 1, 2017, Public Law 218-2017 (HEA 1002) deletes wording in IC 8-14-1-5(a) which allowed for the painting of structures and objects to be paid from MVH Funds.

Contact Information

If you have any questions regarding the SBOA accounting and uniform compliance guidelines for highway funds specific to counties, please contact SBOA Directors Lori Rogers or Shannon Lopez at (317) 232-2512 or Counties@sboa.in.gov. If you have any questions regarding SBOA accounting and uniform compliance guidelines for highway funds specific to cities and towns, please contact SBOA Directors Todd Caldwell or Susan Gordon at (317) 232-2513 or Cities.Towns@sboa.in.gov.



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MEMORANDUM

TO: All City and Town Courts
FROM: Paul D. Joyce, State Examiner
DATE: June 12, 2017
RE: Court Costs/Fee Changes - Amendment

=====
This memo supersedes the memo dated June 7, 2017 regarding Court Costs/Fee Changes. The following court fees will change, effective July 1, 2017:

1. DOCUMENT STORAGE FEE – Public Law 235, Senate Enrolled Act 455, changes the effective dates for the document storage fee. The clerk shall now collect a document storage fee of \$5 from July 1, 2017 and before July 1, 2022, and \$2 after June 30, 2022. The amount of this fee didn't change; just the length of time to the year 2022. The fee continues to be remitted to the city or town fiscal officer on a monthly basis for deposit in the clerk's record perpetuation fund.
2. AUTOMATED RECORDKEEPING FEE – Public Law 217, House Enrolled Act 1001, changes the automated recordkeeping fee from \$19 to \$20 for all actions except those resulting in pretrial diversion or deferral, for which the fee remains \$5. This fee continues to be remitted to the Auditor of State semiannually.
3. DNA SAMPLE PROCESSING FEE – Public Law 111, Senate Enrolled Act 322, changes the DNA sample processing fee from \$2 to \$3.
4. PRO BONO LEGAL SERVICES FEE – Public Law 39, Senate Enrolled Act 42, changes the effective dates for the pro bono legal services fee required to be collected in certain circumstances as provided in IC 33-37-5-31. The fee itself remains at \$1, but is now required to be collected through July 1, 2022, instead of ending on July 1, 2017.

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.

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>
Criminal Actions [IC 33-37-4-1] (Note 1):					
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
Judgments [IC 33-37-4-2] (Note 2):					
Infractions	IF	\$ 70.00	\$ 38.50	\$ 14.00	\$ 17.50
Local Ordinance Violations	OV	\$ 70.00	\$ 38.50	\$ 14.00	\$ 17.50
Civil Actions [IC 33-37-4-4]:					
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 (\$50.00) and a monthly user's fee of ten dollars (\$10.00) for each month that the person remains in the pretrial diversion program. [IC 33-37-4-1(c)]

In addition, IC 33-37-5-17 requires the defendant to pay a **deferred prosecution fee** for court costs of one hundred twenty dollars (\$120.00) where the court defers prosecution under IC 33-39-1-8.

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).

2-1

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>