

TOWNSHIP BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES ISSUED BY STATE BOARD OF ACCOUNTS

Volume 302

August 2013

ITEMS TO REMEMBER

September

- 2 Legal Holiday - Labor Day (IC 1-1-9-1)
- 3 Last day for townships to submit proposed 2014 budgets, rates, and levies to the county council for review and recommendation. (IC 6-1.1-17-3.5)
- 13 Last day for first publication of proposed 2014 budgets, rates, and levies, and notice to taxpayers of public hearing. The first publication must be at least 10 days before the date fixed for the public hearing. (IC 6-1.1-17-3)
- 20 Last day for second publication of proposed 2014 budgets, rates, and levies, and notice to taxpayers of public hearing. (IC 6-1.1-17-3)
- 30 All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. (IC 5-13-6-1)

The township board should set the salaries of township officials and employees in conjunction with the preparation and completion of the township budget using Township Form No. 17.

October

- 1 Last day for county council to complete review and issue non-binding recommendation to the township regarding the township's proposed 2014 budgets, rates, and levies. (IC 6-1.1-17-3.5)
- 14 Legal Holiday - Columbus Day (IC 1-1-9-1)
- 21 Last date for townships to file excessive levy appeals. (IC 6-1.1-18.5-12)
- 22 Last possible day for townships to hold a public hearing on the 2014 budget. Public hearing must be held at least ten (10) days before budget is adopted (except in Marion County and in second class cities.) This deadline is subject to the scheduling of the adoption meeting, which could be held before November 1. (IC 6-1.1-17-5)

In Marion County and second class cities, the public hearing may be held any time after introduction of the 2014 budget. (IC 6-1.1-17-5(a)). Note that November 1 is the last date for adoption of the budget.

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ITEMS TO REMEMBER (Continued)

October

- 29 Last possible day ten (10) or more taxpayers may object to a proposed 2014 budget, rate, or levy of a political subdivision. Objection must be filed not more than seven (7) days after the public hearing. This deadline is subject to the scheduling of the adoption meeting, which could be held before November 1. (IC 6-1.1-17-5(b))
- 31 Last day to file Employer's Quarterly Federal Tax Return (Form 941) with the Internal Revenue Service for federal and social security taxes for the third quarter.
- Last day to file quarterly reports with the Indiana Department of Workforce Development for the quarter ending September 30.
- All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. (IC 5-13-6-1)

November

- 1 Deadline for townships to adopt 2014 budgets, rates, and levies. (IC 6-1.1-17-5(a))
- 4 Last day for townships to file adopted 2014 budgets with the county auditor. (IC 6-1.1-17-5)
- Last day for townships to submit their 2014 budgets, rates, and levies to the Department of Local Government Finance through Gateway.
- 11 Legal Holiday - Veterans' Day (IC 1-1-9-1)
- 28 Legal Holiday - Thanksgiving Day (IC 1-1-9-1)
- 30 On or before June 1 and December 1 of each year (or more frequently if the county legislative body adopts an ordinance requiring additional certifications) the Trustee shall certify a list of the name and address of each person who has money due from the township to the County Treasurer. (IC 6-1.1-22-14)
- All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. (IC 5-13-6-1)

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STATE BOARD OF ACCOUNTS CALLED MEETING

Once again the State Board of Accounts anticipates (in accordance with IC 5-11-14-1) calling a meeting of all Township Trustees in conjunction with the Indiana Township Association 2013 Education Conference September 22 through September 25, 2013, in Indianapolis. Many items pertaining to our audits of townships will be discussed at our meeting on Wednesday, September 25, 2013. The Indiana Township Association will again provide for arrangements of the meeting location at the Sheraton Indianapolis Hotel & Suites, Keystone at the Crossing.

NEPOTISM AND CONTRACTING CERTIFICATIONS

Each township board member and the trustee are required to certify in writing under penalties of perjury before December 31 of each year that they have not violated the requirements of IC 36-1-20.2 (Nepotism) and IC 36-1-21 (Contracting). These certifications shall be submitted to the trustee and retained locally.

IC 36-1-20.2-16, concerning the annual certification on nepotism, states:

"Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer has not violated this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year."

IC 36-1-21-6, concerning the annual certification on contracting, states:

"Each elected officer of the unit shall annually certify in writing, subject to the penalties for perjury, that the officer is in compliance with this chapter. An officer shall submit the certification to the executive of the unit not later than December 31 of each year."

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NEPOTISM POLICY

Each township board shall adopt a nepotism policy that includes, at a minimum, the requirements set forth in IC 36-1-20.2. The policy may include requirements that are more stringent or detailed. These policies should be retained locally. There is no requirement that a new policy be adopted annually.

When completing the Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100R), the trustee must indicate if a nepotism policy has been implemented. If a policy has not been implemented, the Department of Local Government Finance may not approve the township's budget or any additional appropriations for the township. If the township board implements a nepotism policy after the trustee has completed the Form 100R, the trustee should send an email to sboaannualreports@sboa.in.gov and ask for the report to be unlocked. After the report is unlocked, the trustee should go back into the report and indicate that a policy has been adopted. The trustee must submit the report again in order for this change to be effective.

IC 36-1-20.2-9 states:

"(a) This chapter establishes minimum requirements regarding employment of relatives. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

- (1) include requirements that are more stringent or detailed than any provision in this chapter; and
- (2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit the employment of a relative that is not otherwise prohibited by this chapter.

(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter."

IC 36-1-20.2-17 states:

"If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance."

IC 36-1-20.2-18 states:

"If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

- (1) the unit's budget; or
- (2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit is in compliance with this chapter."

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CONTRACTING POLICY

Each township board shall adopt a contracting policy that includes, at a minimum, the requirements set forth in IC 36-1-21. The policy may include requirements that are more stringent or detailed. These policies should be retained locally. There is no requirement that a new policy be adopted annually.

When completing the Certified Report of Names, Addresses, Duties and Compensation of Public Employees (Form 100R), the trustee must indicate if a contracting policy has been implemented. If a policy has not been implemented, the Department of Local Government Finance may not approve the township's budget or any additional appropriations for the township. If the township board implements a contracting policy after the trustee has completed the Form 100R, the trustee should send an email to sboaannualreports@sboa.in.gov and ask for the report to be unlocked. After the report is unlocked, the trustee should go back into the report and indicate that a policy has been adopted. The trustee must submit the report again in order for this change to be effective.

IC 36-1-21-4 states:

"(a) This chapter establishes minimum requirements regarding contracting with a unit. The legislative body of the unit shall adopt a policy that includes, at a minimum, the requirements set forth in this chapter. However, the policy may:

- (1) include requirements that are more stringent or detailed than any provision in this chapter; and
- (2) apply to individuals who are exempted or excluded from the application of this chapter.

The unit may prohibit or restrict an individual from entering into a contract with the unit that is not otherwise prohibited or restricted by this chapter.

(b) The annual report filed by a unit with the state board of accounts under IC 5-11-13-1 must include a statement by the executive of the unit stating whether the unit has implemented a policy under this chapter."

IC 36-1-21-7 states:

"If the state board of accounts finds that a unit has not implemented a policy under this chapter, the state board of accounts shall forward the information to the department of local government finance."

IC 36-1-21-8 states:

"If a unit has not implemented a policy under this chapter, the department of local government finance may not approve:

- (1) the unit's budget; or
- (2) any additional appropriations for the unit;

for the ensuing calendar year until the state board of accounts certifies to the department of local government finance that the unit has adopted a policy under this chapter."

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TRUSTEE COMPENSATION

IC 36-6-4-3, concerning a township trustee's responsibilities and duties, states:

"The executive shall do the following:

- (1) Keep a written record of official proceedings.
- (2) Manage all township property interests.
- (3) Keep township records open for public inspection.
- (4) Attend all meetings of the township legislative body.
- (5) Receive and pay out township funds.
- (6) Examine and settle all accounts and demands chargeable against the township.
- (7) Administer township assistance under IC 12-20 and IC 12-30-4.
- (8) Perform the duties of fence viewer under IC 32-26.
- (9) Provide and maintain cemeteries under IC 23-14.
- (10) Provide fire protection under IC 36-8, except in a township that:
 - (A) is located in a county having a consolidated city; and
 - (B) consolidated the township's fire department under IC 36-3-1-6.1.
- (11) File an annual personnel report under IC 5-11-13.
- (12) Provide and maintain township parks and community centers under IC 36-10.
- (13) Destroy detrimental plants, noxious weeds, and rank vegetation under IC 15-16-8.
- (14) Provide insulin to the poor under IC 12-20-16.
- (15) Perform other duties prescribed by statute.

IC 36-6-6-10, concerning compensation of officers and employees, states in part:

"(b) The township legislative body shall fix the:

- (1) salaries;
- (2) wages;
- (3) rates of hourly pay; and
- (4) remuneration other than statutory allowances;

of all officers and employees of the township.

(c) Subject to subsection (d), the township legislative body may reduce the salary of an elected or appointed official. However, except as provided in subsection (h), the official is entitled to a salary that is not less than the salary fixed for the first year of the term of office that immediately preceded the current term of office.

(d) Except as provided in subsection (h), the township legislative body may not alter the salaries of elected or appointed officers during the fiscal year for which they are fixed, but it may add or eliminate any other position and change the salary of any other employee, if the necessary funds and appropriations are available.

(e) If a change in the mileage allowance paid to state officers and employees is established by July 1 of any year, that change shall be included in the compensation fixed for the township executive and assessor under this section, to take effect January 1 of the next year. However, the township legislative body may by ordinance provide for the change in the sum per mile to take effect before January 1 of the next year.

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TRUSTEE COMPENSATION (Continued)

(f) The township legislative body may not reduce the salary of the township executive without the consent of the township executive during the term of office of the township executive as set forth in IC 36-6-4-2.

(g) This subsection applies when a township executive dies or resigns from office. The person filling the vacancy of the township executive shall receive at least the same salary the previous township executive received for the remainder of the unexpired term of office of the township executive (as set forth in IC 36-6-4-2), unless the person consents to a reduction in salary.

(h) In a year in which there is not an election of members to the township legislative body, the township legislative body may vote to reduce the salaries of the members of the township legislative body by any amount."

We are not aware of any statutory provisions which would allow a trustee to circumvent a township board's authority to "fix the salaries" of a trustee by "contracting with themselves" to provide cemetery care, paying themselves from township assistance, etc. Therefore, the State Board of Accounts is of the audit position that compensation provided by a township board in accordance with IC 36-6-6-10 is all inclusive for duties performed by a trustee.

RAINY DAY FUND

Indiana Code IC 36-1-8-5.1 states:

"(a) A political subdivision may establish a rainy day fund by the adoption of:

- (1) an ordinance, in the case of a county, city, or town; or
- (2) a resolution, in the case of any other political subdivision.

(b) An ordinance or a resolution adopted under this section must specify the following:

- (1) The purposes of the rainy day fund.
- (2) The sources of funding for the rainy day fund, which may include the following:

(A) Unused and unencumbered funds under:

- (i) section 5 of this chapter;
- (ii) IC 6-3.5-1.1-21.1;
- (iii) IC 6-3.5-6-17.3; or
- (iv) IC 6-3.5-7-17.3.

(B) Any other funding source:

- (i) specified in the ordinance or resolution adopted under this section; and
- (ii) not otherwise prohibited by law.

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RAINY DAY FUND (Continued)

(c) The rainy day fund is subject to the same appropriation process as other funds that receive tax money.

(d) In any fiscal year, a political subdivision may, at any time, do the following:

- (1) Transfer any unused and unencumbered funds specified in subsection (b)(2)(A) from any fiscal year to the rainy day fund.
- (2) Transfer any other unobligated cash balances from any fiscal year that are not otherwise identified in subsection (b)(2)(A) or section 5 of this chapter to the rainy day fund as long as the transfer satisfies the following requirements:
 - (A) The amount of the transfer is authorized by and identified in an ordinance or resolution.
 - (B) The amount of the transfer is not more than ten percent (10%) of the political subdivision's total annual budget adopted under IC 6-1.1-17 for that fiscal year.
 - (C) The transfer is not made from a debt service fund.

(e) A political subdivision may use only the funding sources specified in subsection (b)(2)(A) or in the ordinance or resolution establishing the rainy day fund. The political subdivision may adopt a subsequent ordinance or resolution authorizing the use of another funding source.

(f) The department of local government finance may not reduce the actual or maximum permissible levy of a political subdivision as a result of a balance in the rainy day fund of the political subdivision.

(g) A county, city, or town may at any time, by ordinance or resolution, transfer to:

- (1) its general fund; or
- (2) any other appropriated funds of the county, city, or town;

money that has been deposited in the rainy day fund of the county, city, or town."