
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: All Political Subdivisions

FROM: Wesley R. Bennett, Commissioner

RE: Legislation Affecting Local Government Matters (HEA 1427)

DATE: June 17, 2019

On May 5, 2019, Governor Holcomb signed into law House Enrolled Act 1427-2019 (“HEA 1427”). This memorandum discusses the various revisions made to the law regarding local government matters. Please note that this memorandum is for informational purposes only and is not a substitute for reading the law.

I. Gateway Submissions & Local Budgets

A. Correction of Data

Section 3 of HEA 1427, effective July 1, 2019, specifies that valid notice has been provided to taxpayers if all of the following apply:

- (1) A political subdivision publishes or submits to Gateway a notice concerning a tax rate, tax levy, or budget;
- (2) The notice described in subdivision (1) contains an error or omission that causes the notice to inaccurately reflect the tax rate, tax levy, or budget actually proposed or fixed by the political subdivision; and
- (3) The difference between the amount of the published or submitted tax rate, tax levy, or budget of the political subdivision and the tax rate, tax levy, or budget actually proposed or fixed by the political subdivision is less than one-tenth of one percent (0.1%).

If an error or omission is identified by a political subdivision that meets the criteria above, the Department of Local Government Finance (“Department”) will correct the error or omission through Gateway.

B. Debt Payments Included in Budgets

Section 33 of HEA 1427, effective July 1, 2019, specifies that budget estimates submitted to the Department must take into account all payments for debt service obligations that are to be made by the political subdivision during the ensuing year. This means that local units will be required to include all debt payments for the ensuing year in their proposed budgets.

C. Revised Budget Public Notice & Local Budget Advertising

Section 33 of HEA 1427 also specifies that budget notices to taxpayers (“Form 3”) must include the percentage change between the current and proposed tax levies of each fund, as well as the time and place that the fiscal body will fix the budget, tax rate, and tax levy under IC 6-1.1-17-5. Going forward, all of the following information must be submitted to Gateway:

- (1) The estimated budget.
- (2) The estimated maximum permissible levy, as provided by the Department under IC 6-1.1-18.5-24.
- (3) The current and proposed tax levies of each fund.
- (4) **The percentage change between the current and proposed tax levies of each fund. (New)**
- (5) The amount by which the political subdivision’s distribution of property taxes may be reduced by credits granted under IC 6-1.1-20.6-11.
- (6) The amounts of excessive levy appeals to be requested.
- (7) The time and place at which the political subdivision or appropriate fiscal body will hold a public hearing on the items described in subdivisions (1) through (6).
- (8) **The time and place at which the political subdivision or appropriate fiscal body will meet to fix the budget, tax rate, and tax levy under IC 6-1.1-17-5. (New)**

The submission of an amendment to the information under subdivisions (1) through (6) must occur at least ten (10) days before the public hearing, and an amendment to the information under subdivision (7) must occur at least twenty-four (24) hours before the time in which the meeting was originally advertised to commence.

D. Form 4 Submissions

Section 34 and 36 of HEA 1427, effective July 1, 2019, specifies that political subdivisions and school corporations must upload their budget adoption documentation (“Form 4”) to Gateway not later than five business (5) days after the budget is adopted. Failure to upload Form 4 within five (5) business days may result in the continuation of the previous year’s budget.

II. Mayoral Vetoes

Section 35 of HEA 1427, effective July 1, 2019, provides that if an ordinance fixing a budget, tax rate, and tax levy is vetoed or considered vetoed by the city executive after October 1, the city’s legislative body has thirty (30) days from the effective date of the veto to override the veto and fix the budget for the ensuing budget year.

Under IC 36-4-6-16(c), a veto ordinance is considered defeated unless the legislative body passes the ordinance over the executive’s veto by a two-thirds ($\frac{2}{3}$) vote.

III. Levy Increases - 16(l) Adjustments

Section 47 of HEA 1427, effective July 1, 2019, adds additional requirements for levy increase requests under IC 6-1.1-17-16(l). Beginning July 1, 2019, political subdivisions are required to conduct a readoption hearing for all levy increase requests, and notice of the readoption hearing

must be posted to Gateway not later than forty-eight (48) hours before the meeting. The legislation also specifies that requests to the Department for an increase of a political subdivision's tax levy to an amount that exceeds the amount originally advertised must include:

- (1) The corrected budget, tax rate, or levy, as applicable; and
- (2) The time and place of the readoption meeting.

IV. Additional Appropriations

Section 49 of HEA 1427, effective July 1, 2019, clarifies that the submission requirements for additional appropriation requests to the Department under IC 6-1.1-18-5 only apply to those funds that are reviewed by the Department when certifying a unit's budget, tax rate, or tax levy. The funds that are reviewed by the Department for budget certification are outlined under IC 6-1.1-17-16.

V. Shortfall Appeals

Section 53 of HEA 1427, effective July 1, 2019, specifies that shortfall appeals may only be requested for revenue shortfalls experienced no more than five (5) years from the date of the most recent certified budget, tax rate, and levy of the unit. Shortfall appeals may be submitted to the Department if all of the following apply:

- (1) The civil taxing unit experienced a property tax revenue shortfall that resulted from erroneous assessed valuation figures being provided to the civil taxing unit;
- (2) The erroneous assessed valuation figures were used by the civil taxing unit in determining its total property tax rate; and
- (3) The error in the assessed valuation figures was found after the civil taxing unit's property tax levy resulting from the total rate was finally approved by the Department.

VI. Mobile Homes

A. Mobile Home Sale Notice

Section 57 of HEA 1427, effective July 1, 2019, provides that the county treasurer's notice of its intention to sell a mobile home with tax delinquencies must contain a statement that the county treasurer will apply for a court judgment against the mobile home for an amount that is set by the county executive and includes any collection expenses attributable to the property. Currently, the mobile home sale notice statement regarding the petition for a court judgment is for an amount that may not be less than the amount of the delinquent taxes, penalties, and collection expenses. This amendment will give the county treasurer the ability to seek a judgment that is less than the outstanding delinquency, so long as that amount has been set by the county executive.

Section 58 of HEA 1427, effective July 1, 2019, modifies the timeframe for the county treasurer's notice of sale of a mobile home to be sent to the property owner prior to seeking a judgment from the court. Currently, the county treasurer must send notice to the property owner twenty-one (21) days before applying for a judgment and order for sale of the delinquent mobile

home. Beginning July 1, 2019, county treasurers must send notice to the property owner at least thirty (30) days prior to apply for a judgment.

B. Mobile Home Delinquent Tax Liability

Section 59 of HEA 1427, effective July 1, 2019, specifies that whenever no bid is received on a mobile home during tax sale, the taxpayer who is delinquent in the payment of taxes causing the sale will maintain ownership of the mobile home and continue to be liable for the delinquent taxes.

VII. Software Contracts

Section 63 of HEA 1427, effective July 1, 2019, specifies that county assessors may enter into a contract with software vendors, so long as the contract includes the standard contract provisions prescribed by the Department. Any contracts executed between county assessors and software vendors must be submitted to Gateway no later than thirty (30) days after the execution of the contract.

The standard contract provisions for contracts with software vendors is currently available on the Department's website at: <https://www.in.gov/dlgf/6854.htm>

VIII. Cancellation of Taxes

Section 65 of HEA 1427, effective July 1, 2019, authorizes the cancellation of property taxes, delinquencies, fees, special assessments, and penalties by the county executive, so long as the property is owned by a county, a township, a city, a town, or a body corporate and politic established under IC 8-10-5-2(a). Petitions requesting the cancellation of taxes must be jointly submitted by the auditor, assessor, and treasurer of the county in which the real property is located.

IX. TIF Resolutions

Various sections of HEA 1427, all effective July 1, 2019, require the fiscal body of a redevelopment commission or other entity that creates a tax increment financing area to file a copy of the following ordinances or resolutions, along with any supporting documents, within thirty (30) days of adoption to the county auditor and the Department:

- (1) Designation of an area as an economic development district (IC 6-1.1-39-3)
- (2) Establishment of an airport development zone (IC 8-22-3.5-6)
- (3) Establishment of a redevelopment area (IC 36-7-14-17), (IC 36-7-15.1-10)
- (4) Designation of a certified technology park as an allocation area (IC 36-7-32-15)
- (5) Adoption or amendment of a military reuse plan (IC 36-7-30.5-17) (IC 36-7-30.5-18)

The bill provides that if a fiscal body of a redevelopment commission or other entity that creates any of the above TIF areas files the resolution and supporting documents with either the county auditor or the Department after the first anniversary of the effective date of the area, the county

auditor must compute the base assessed value of the TIF area using the assessment date immediately preceding the later of:

- (1) The date on which the documents were filed with the county auditor; or
- (2) The date on which the documents were filed with the Department.

X. Local Income Taxes

A. LIT Ordinance Pre-Review

Section 69 of HEA 1427, effective July 1, 2019, specifies that governmental entities that opt to participate in the LIT ordinance pre-review process outlined in IC 6-3.6-3-2 must submit the proposed notice, ordinance, or resolution to the Department for pre-review at least thirty (30) days prior to when the entity plans to submit the official notice, adopting ordinance or resolution, and vote results on an ordinance or resolution to the department.

Upon submission of LIT ordinance documents for pre-review, the Department will provide the submitting entity a written determination of the appropriateness of the notice, ordinance, or resolution, including any recommended modifications, within thirty (30) days of receipt. As outlined in the Department's guidance memorandum dated April 16, 2019, all drafts should be submitted via email to Fred Van Dorp at fvandorp@dlgf.in.gov.

B. Jail LIT

Section 70 of HEA 1427, effective July 1, 2019, extends the maximum time period, from 20 to 22 years, for the allocation of local income taxes for correctional and rehabilitation facilities. For tax rates adopted after June 30, 2019, the bill also limits the amount of revenue that may be used for operating expenses for correctional and rehabilitation facilities to twenty percent (20%).

C. LIT Distribution Estimates

Section 71 of HEA 1427, effective January 1, 2019 (retroactive), includes a technical revision specifying that the State Budget Agency will provide the Department and county auditors an estimate of the local income tax distributions to the county before August 2. In previous years, the local income tax distribution estimates were released by June 1.

Section 72 of HEA 1427, effective January 1, 2019 (retroactive), removes the calculation for the amount of excess account balances to be distributed for purposes of supplemental local income tax distributions from the certified distribution calculations provided to each county. However, Section 73 of HEA 1427, specifies that for counties qualifying for a supplement distribution, the State Budget Agency must update the certified distribution calculations before February 15 to include the excess account balances to be distributed throughout the county.

XI. Training of Elected Officials

A. Newly Elected Officials

Various section of HEA 1427, all effective July 1, 2019, require the following newly elected officials to complete five (5) hours of newly elected official training courses before the individual first takes office:

- (1) Circuit Court Clerks (IC 33-32-2-9)
- (2) County Auditor (IC 36-2-9-2.5) (IC 36-2-9.5-2.5)
- (3) County Treasurer (IC 36-2-10-2.5)
- (4) County Recorder (IC 36-2-11-2.5)
- (5) County Surveyors (IC 36-2-12-2.5)

The legislation also specifies that the five (5) hours of newly elected official training will also count towards the general training hours required for each office. Prior to the adoption of HEA 1427, elected officials were required to complete fifteen (15) hours of training courses within one (1) year, and forty (40) hours of training courses within three (3) years.

B. County Official Training Fund

Section 103 of HEA 1427, effective July 1, 2019, provides that money in the county elected officials training fund may be used to provide:

- (1) Travel, lodging, and related expenses associated with any training paid for from the fund; and
- (2) Training of one or more designees of a county elected official if sufficient funds are appropriated by the county fiscal body.

Money in the county elected officials training fund may also be used for the newly elected official training course expenses.

C. Municipal Clerk & Fiscal Officer Training

Sections 110, 113 and 114 of HEA 1427, effective July 1, 2019, requires the clerk and fiscal officer of all cities and towns to complete at least: (1) 14 hours of training courses within one year; and (2) 36 hours of training courses within three years. These training requirements must be completed for each term that an individual is elected or appointed to office. The bill also provides that a training course that an individual completes after being elected or appointed as a clerk or fiscal officer of a city or town and before taking office, applies towards these training requirements.

For purposes of municipal clerk and fiscal officers training, “training courses” has been defined to include:

- (1) Training courses, workshops, training institutes authorized by IC 5-11-14, formal academies, special seminars, and other in-service training related to the office of the:
 - (A) clerk; or
 - (B) fiscal officer.

XII. Volunteer Fire Department Employees

Section 100 of HEA 1427, effective July 1, 2019, clarifies that all members or employees of a volunteer fire department, who also serve on the fiscal body of a local government unit, must abstain from voting on the unit’s budget.

XIII. Flood Control Improvement District

Section 132 of HEA 1427, effective July 1, 2019, clarifies that the report on the activities of a flood control improvement district must include the following:

- (1) Revenues received.
- (2) Expenses paid.
- (3) Fund balances;
- (4) The amount and maturity date of all outstanding obligations.
- (5) The amount paid on outstanding obligations.
- (6) A list of all parcels in the allocation area – including the assessed value and incremental assessed value for each parcel.

As modified by Section 132, the reporting requirements for flood control improvement districts will mirror the current reporting requirements for tax increment finance districts.

Contact Information

Questions may be directed to Emily Crisler, Deputy General Counsel, at (317) 234-8624 or emcrisler@dlgf.in.gov or David Marusarz, Deputy General Counsel, at (317) 233-6770 or dmarusarz@dlgf.in.gov.