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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO: All Political Subdivisions**

**FROM: Wesley R. Bennett, Commissioner**

**RE: Legislation Changes Concerning Local Budgeting Matters**

**DATE: June 14, 2022**

The Department of Local Government Finance (“Department”) issues this memorandum to inform the public of legislative changes concerning local budgeting matters. Please note that this memorandum is for informational purposes only, and it is not a substitute for reading the law. Except as otherwise stated, the provisions are effective July 1, 2022.

## **I. Amended Certified Net Assessed Value Submissions**

On March 21, 2022, Governor Eric J. Holcomb signed into law House Enrolled Act 1260-2022 (“HEA 1260”). Section 35 of HEA 1260 specifies that amended certified net assessed value submissions must be sent by county auditors to the Department by no later than September 1. Additionally, current law requires that the county auditor must hold a public hearing before amending the certification of net assessed values unless the amendment: (1) corrects a mathematical error; (2) adds the assessed value of omitted property; or (3) will not result in a tax rate increase. Section 35 of HEA 1260 removes these exceptions and requires a public hearing in all cases.

## **II. Cumulative Funds & Trending**

Section 36 and Section 76 of HEA 1260 remove the requirement to adjust maximum tax rates after reassessment or annual adjustment for cumulative funds. Under current law, the maximum tax rates for certain cumulative funds must be adjusted each year to neutralize the increases in assessed value from annual adjustment and general reassessments. After the tax rate is reduced, a taxing unit may re-establish a cumulative fund at the maximum statutory rate.

Under HEA 1260, the maximum rates will no longer be adjusted, and taxing units that adopt the maximum statutory rate will no longer have to re-establish the following cumulative funds to maintain the statutory maximum rate for taxes due and payable after January 1, 2023:

- (1) Cumulative Channel Maintenance – Fund 0990 (Ind. Code § 8-10-5-17)
- (2) Cumulative Airport Building – Fund 2190 (Ind. Code § 8-22-3-25)
- (3) Special Cumulative Airport Building – Fund 8190 (Ind. Code § 8-22-3-25)
- (4) Cumulative Conservancy Improvement – Fund 2393 (Ind. Code § 14-33-21-5)

- (5) Fire Protection Territory Equipment Replacement – Fund 8692 (Ind. Code § 36-8-19-8.5)
- (6) County Cumulative Capital Development – Fund 2391 (Ind. Code § 36-9-14.5)
- (7) Special Cumulative Capital Development – Fund 9090 (Ind. Code § 36-9-14.5)
- (8) City/Town Cumulative Capital Development – Fund 2391 (Ind. Code § 36-9-15.5)
- (9) Township Cumulative Vehicle – Fund 1090 (Ind. Code § 36-9-17.5-4)
- (10) Township Cumulative Park & Recreation – Fund 1390 (Ind. Code § 36-10-7.5-19)
- (11) Cumulative Public Safety Officers Survivor’s Health Coverage – Fund 0193 (Ind. Code § 36-8-8-14.2)

### **III. Three-Year Growth Appeals**

Section 37 of HEA 1260 amends Ind. Code § 6-1.1-18.5-13 to modify the calculation used to determine eligibility for a three-year growth appeal. Current law allows taxing units to appeal for a higher maximum levy if the unit’s three-year average assessed value growth percentage exceeds the statewide average max levy growth quotient (“MLGQ”) for the same time period by at least 2%. The current formula includes transitional calculations that adjust for the implementation of the statewide inventory deduction (2006 Pay 2007) and the supplemental standard homestead deduction (2008 Pay 2009).

Beginning with three-year growth appeal submissions for the 2023 budget cycle, the transitional calculations for the inventory deduction and the supplemental standard homestead deduction will no longer be included in the eligibility calculation. Below is the new calculation for determining a unit’s eligibility and maximum appeal amount:

STEP 1: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a statewide general reassessment of real property under Ind. Code § 6-1.1-4-4 does not first become effective.

STEP 2: Calculate the assessed value of all taxable property for the unit for each year determined in Step 1, and divide that amount by the amount calculated for the immediately preceding year.

STEP 3: Sum the results of Step 2 and divide by three (3).

STEP 4: For each year determined in Step 1, add the statewide total assessed value of all taxable property for all units, and divide that amount by the amount calculated for the previous year.

STEP 5: Add the Step 4 results and divide by three (3).

STEP 6: Divide the Step 3 results by the Step 5 results.

If the Step 6 figure is equal to or greater than 1.02, then the unit is eligible for the appeal. The maximum amount that the Department may award in the appeal is the

amount by which Step 3 exceeds the MLGQ as calculated according to Ind. Code § 6-1.1-18.5-2.

#### **IV. Airport Loans & 10-Year Lease Agreements**

Section 49 of HEA 1260 removes the requirement under Ind. Code § 8-22-2-18.5 for all airport loan contracts to be submitted to the Department for approval or disapproval. Under the revised statute, airport loan contracts for the payment of costs of airport capital improvements, including the acquisition of real property or construction or improvement of revenue-producing buildings are subject to the following requirements:

- (1) The loan contract must be approved by resolution of the board and the fiscal body of the eligible entity that established the board.
- (2) The loan contract must provide for the repayment of the loan in not more than forty (40) years.
- (3) The loan contract must state that the indebtedness is that of the board, is payable solely from revenues of the board that are derived from either airport operations or from revenue bonds, and may not be paid by a tax levied on property located within the district.

Additionally, Section 68 and Section 69 of HEA 1260 remove the requirement under Ind. Code § 36-1-10 for the Department to approve all noncapital lease agreements with a term exceeding ten (10) years.

#### **V. Town Fiscal Management**

On March 10, 2022, Governor Eric J. Holcomb signed into law Senate Enrolled Act 163-2022 (“SEA 163”). Section 9 of SEA 163 authorizes a town with a population of more than 34,000 to adopt an ordinance establishing the office of town controller that is appointed by the town legislative body. The town controller will serve as the town’s fiscal officer and would have the following duties under Ind. Code § 36-5-6.5:

- (1) Prescribe the form of reports and accounts to be submitted to the town department of finance.
- (2) Sign and issue all warrants on the town treasury.
- (3) Audit and revise all accounts and trusts in which the town is concerned.
- (4) Keep separate accounts for each item of appropriation made for each town department, including a statement showing the amount drawn on each appropriation, the unpaid contracts charged against it, and the balance remaining.
- (5) At the end of each fiscal year, submit under oath to the town legislative body a report of the accounts of the town published in pamphlet form and showing revenues, receipts, expenditures, and the sources of revenues.
- (6) Maintain custody of the records of the department and turn them over to the fiscal officer's successor in office.

- (7) Perform duties prescribed by statute concerning the negotiation of town bonds, notes, and warrants.
- (8) Keep a register of bonds of the town and of transfers of those bonds.
- (9) Manage the finances and accounts of the town and make investments of town money, subject to the ordinances of the legislative body and laws concerning public funds.
- (10) Issue town licenses on payment of the license fee.
- (11) Collect fees as fixed by ordinance.
- (12) Pay into the town treasury, in accordance with the laws concerning public funds, all fees and other town money collected by the town department of finance, specifying the source of each item.
- (13) Prescribe payroll and account forms for all town offices.
- (14) Prescribe the manner in which salaries shall be drawn.
- (15) Prescribe the manner in which creditors, officers, and employees shall be paid.
- (16) Provide that all salaries are payable monthly, unless the legislative body establishes more frequent payments.
- (17) Notify the town council of the failure of any town officer to collect money due the town or to pay town money into the town treasury.
- (18) Draw warrants on the town treasury for miscellaneous town expenditures not made under the direction of a department and not specifically fixed by statute.
- (19) If a town owns a utility and the controller is directly responsible for the billing and collection of that utility's rates and charges, the controller shall appoint those employees who are also responsible for that billing and collection. These employees serve at the controller's pleasure.

Additionally, Section 8 of SEA 163 specifies that for towns establishing the office of town controller under Ind. Code § 36-5-6.5, the position of town clerk-treasurer would be converted to a town clerk with the following duties:

- (1) Serve as clerk of the town council under Ind. Code § 36-5-2-2 and maintain custody of its records.
- (2) Maintain all records required by law.
- (3) Keep the town seal.
- (4) As soon as a successor is elected and qualified, deliver to the successor all the records and property of the clerk's office.
- (5) Perform other duties prescribed by law.
- (6) Administer oaths when necessary in the discharge of the clerk's duties, without charging a fee.
- (7) Take depositions, without charging a fee.
- (8) Take acknowledgment of instruments that are required by statute to be acknowledged, without charging a fee.
- (9) Serve as clerk of the town court under Ind. Code § 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under Ind. Code § 33-35-3-1.

## **VI. Township Budgets**

On March 7, 2022, Governor Eric J. Holcomb signed into law Senate Enrolled Act 304-2022 (“SEA 304”). Section 7 of SEA 304 requires a township board to meet and adopt the township’s budget even if the board intends for the most recent annual appropriations and annual tax levy of the township to be continued for the ensuing budget year. The township trustee is required to file the budget adopted by the township legislative body with the Department as required under Ind. Code § 6-1.1-17-5(d). Any township trustee that fails to timely file the township budget commits a Class A misdemeanor and may be removed from office by an action under Ind. Code § 5-8-1-35.

Section 6 of SEA 304 outlines a new process for removing a township trustee. Under current law, an action for removal of a township trustee may only be initiated in court on the oath of the person for violations regarding charging illegal fees, neglect of duties, or improper use of township funds. The new process for removing a township trustee is as follows:

### **IC 36-6-4.5**

#### **Chapter 4.5. Removal of Township Executive from Office**

**Sec. 1. As used in this chapter, "violation" means a violation set forth in, or a violation of any duty set forth under:**

- (1) IC 5-8-1-35(a)(1) or IC 5-8-1-35(a)(2);**
- (2) IC 5-11-13-3;**
- (3) IC 36-6-4-3(12), IC 36-6-4-3(13), or IC 36-6-4-3(14);**
- (4) IC 36-6-4-5; or**
- (5) IC 36-6-4-17(b).**

**Sec. 2. An action to remove a township executive from office under IC 5-8-1-35 for committing a violation may be initiated as set forth in this chapter.**

**Sec. 3. The township legislative body may initiate the removal of a township executive from office by adopting a resolution. At least one (1) public hearing must be held by the township legislative body on the resolution at least ten (10) business days before the resolution is adopted. The resolution must contain a concise statement of the underlying basic facts that support the township legislative body's finding that the township executive committed a violation.**

**Sec. 4. The township legislative body must file the resolution with the county executive of the county in which the township is located not later than ten (10) business days after the date the resolution is adopted by the township legislative body or the resolution is void.**

**Sec. 5. (a) Upon receiving a resolution timely filed under section 4 of this chapter, the county executive may initiate the process of petitioning a court to remove the township executive from office under IC 5-8-1-35 by adopting a resolution.**

**(b) At least one (1) public hearing must be held by the county executive on the resolution at least ten (10) business days before the resolution is adopted. The resolution must contain a concise statement of the underlying basic facts that support the county executive's finding that the township executive committed a violation.**

**Sec. 6. In the case of a county that:**

- (1) has a consolidated city, the resolution must be adopted by the county executive; or**
- (2) does not have a consolidated city, the resolution must be adopted by an affirmative vote of at least a majority of all members of the county executive.**

**Sec. 7. The county executive shall certify the resolution to:**

- (1) the county fiscal body;**
- (2) the township legislative body;**
- (3) the township executive; and**
- (4) the clerk of the court in which the action is filed under IC 5-8-1-35;**

**not later than ten (10) days after the date the resolution is adopted or the resolution is void.**

**Sec. 8. (a) Upon receiving a resolution certified by the county executive under section 7 of this chapter, the county fiscal body may adopt a resolution to initiate the process of petitioning a court to remove the township executive from office under IC 5-8-1-35.**

**(b) At least one (1) public hearing must be held by the county fiscal body on the resolution at least ten (10) business days before the resolution is adopted. The resolution must contain a concise statement of the underlying basic facts that support the county fiscal body's finding that the township executive committed a violation. The finding and statement of underlying basic facts supporting the finding must be identical to those in the resolution adopted by the county executive.**

**(c) The resolution must be adopted by an affirmative vote of at least:**

- (1) five (5) members, in the case of a county fiscal body under IC 36-2-3-2(a);**
- (2) seven (7) members, in the case of a county fiscal body under IC 36-2-3-2(b); or**
- (3) seventeen (17) members, in the case of a county fiscal body of a county that has a consolidated city under IC 36-3-4-2.**

**(d) The county fiscal body shall certify the resolution to:**

- (1) the county executive;**
- (2) the township legislative body;**
- (3) the township executive; and**
- (4) the clerk of the court in which the action is filed under IC 5-8-1-35;**

**not later than ten (10) days after the resolution is adopted, or the resolution is void.**

**Contact Information**

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