



Department of Local Government Finance

Excess Levy Appeals

David Marusarz
Deputy General Counsel
dmarusarz@dlgf.in.gov

Fred Van Dorp
Budget Division Director
fvandorp@dlgf.in.gov

August 2023



Disclaimer

- This presentation and other Department of Local Government Finance materials are not a substitute for the law. The following is not legal advice, just an informative presentation. The Indiana Code always governs.



Agenda

- Introduction to Excess Levy Appeals
- Excess Levy Appeal Types
 - Civil Units
 - Schools
- Submission Procedures
- Additional Information
 - Advertisements
 - Deadlines
 - Templates
- FAQs



Introduction

- Annually, most units receive an automatic adjustment to their maximum levy based on the max levy growth quotient. The MLGQ serves as a limitation on the unit's levying power.
- Units that meet specific, qualifying, statutory criteria or events may petition the Department "for relief from those levy limitations." Ind. Code § 6-1.1-18.5-12(a).



Introduction

- Originated with the same 1973 Property Tax Reform that instituted the Maximum Levy.
- Different types of relief were added or removed overtime.
- Examples:
 - Judicial expenses.
 - Volunteer fire department.
 - Public safety pensions.
 - Township assistance.
- After the 2008 Property Tax Reforms, only a few excess levy appeal types remain.



Introduction

- The purpose of the excess levy appeal is to provide local units of government relief from the maximum levy limits so that they can fulfill their government responsibilities.
- For non-school units, most of the laws for ELAs are found in Ind. Code § 6-1.1-18.5-12 through 16.
- For non-school units, the ELA statute is Ind. Code § 20-46-8-3.
- Other relevant statutes can be found in Ind. Code 6-1.1-17, 18, and 18.5.



Introduction

- General factors the Department may consider in any appeal can be found [here](#).
- Overall, they boil down to some key questions:
 1. What is the overall impact on the unit's budget, if approved or denied?
 2. What are the underlying circumstances of the appeal (depending on type)?
 3. What other revenues are available to the unit (incl. rainy day fund).
 4. How much support or opposition is there to the excess levy?
 5. What is the overall tax impact?
- Ind. Code § 6-1.1-20.6-9.5(b) prohibits a unit from increasing its levy in order to make up for circuit breaker losses.



Excess Levy Appeal - Types



Excess Levy Appeal Types

- Civil (non-school) Units
 - Annexation/Consolidation/Extension of Services
 - Three-Year Growth
 - Emergency
 - Correction of Error
 - Shortfall
- School Corporations
 - Transportation/Bus Replacement



Annexation, Consolidation (Reorg.), Extension of Services

- Ind. Code § 6-1.1-18.5-13(a)(1)
- A unit may submit an excess levy appeal due to increased costs to the unit resulting from:
 - (1) annexation,
 - (2) consolidation (or reorganization), or
 - (3) other extensions of governmental services by the unit to additional geographic areas.
- The unit may appeal for an excess levy based on increased costs in any of the following:
 - (1) The first calendar year in which those costs are incurred,
 - (2) One (1) or more of the immediately succeeding four (4) calendar years.



Annexation

- Any unit that is annexing new territory will receive an automatic increase to their maximum levy based on the formula outlined in Step 3 of Ind. Code § 6-1.1-18.5-3(a).
 - To oversimplify, the annexing unit's levy will be increased by the same percentage that the annexation increases the tax base up to 15% based on the values reported on the CNAV.
 - This increase is not considered an excess levy appeal.
- An annexing unit may file an excess levy appeal but will only receive an increase to its levy that exceeds the automatic adjustment (15%) to the unit's levy received under Ind. Code § 6-1.1-18.5-3(a).
 - A unit cannot forego the automatic adjustment in order to qualify for or receive the whole amount of the excess levy appeal.



Annexation

- For the examples in the next couple of slides, assume a unit has a max levy of \$500, annexed unincorporated territory, and is seeking an ELA to cover the costs of the annexation.
 - The annexation adjustment will offset the amount requested in an ELA.
 - Here, assume the unit is requesting an excess levy of \$75.



Annexation – Example 1

	Source Material	Value	Notes
A	Max Levy	500	
B	CNAV with Annexation	1,100,000	
C	CNAV without Annexation	1,000,000	
D	Annexation Factor	1.1000	B divided by C (Up to 15%)
E	Adjusted Max Levy	550	A times D
F	Eligible for Excess Levy Appeal?	Yes.	Annexation cost exceeds 15% cap

- The unit will automatically receive a 10% increase ($\$500 * 0.1000$) to its maximum levy. Because the requested excess levy is more than the automatic adjustment, the unit's remains eligible for an offset excess levy.



Annexation – Example 2

	Source Material	Value	Notes
A	Max Levy	500	
B	CNAV with Annexation	1,500,000	
C	CNAV without Annexation	1,000,000	
D	Annexation Factor	1.1500	B divided by C (Up to 15%)
E	Adjusted Max Levy	575	A times D
F	Eligible for Excess Levy Appeal?	No.	Annexation cost is equal to the adjustment factor

- The unit will automatically receive a 15% increase ($\$500 * 0.1500$) to their maximum levy. This increase is equal to what the unit is requesting and therefore the ELA would be unnecessary.



Annexation

- In addition to having a qualifying annexation action, the unit must provide the Department with:
 - The amount requested and justification of the financial need, including an explanation of how the unit will be unable to perform its governmental functions without the appeal.
- The Department will request the unit to provide information related to:
 1. Description of facts leading to the annexation.
 2. All ordinances/resolutions related to the annexation.
 3. All fiscal impact statements related to the annexation.
 4. Increase in expenditures by fund and budget category.
 5. Estimated impact to the tax rate.
 6. The impact that the annexation will have on other non property tax revenue sources like LIT and excise.



Annexation

DO NOT:

- Ignore the annexation adjustment in the appeal. The adjustment is required by state law and is not waivable by the unit.
- Inflate projected annexation costs just to get around the annexation adjustment.
- If the increase attributed to the annexation adjustment will meet the projected costs, it is not necessary to submit an ELA.
- Projected costs should be based on actual factors (planned capital and operating needs) and not simply a way to raise the levy beyond the annexation adjustment.



Annexation

- The Department will not approve an ELA when the annexation has occurred after the assessment date.
- When a unit requests the ELA on the basis of an annexation, the burden of the excess levy should be borne by the annexed taxpayers as well as the other taxpayers in the unit.
- Except in MTE areas, when an annexation occurs, the CNAV of the annexed area is not attributed to the unit until an assessment date has passed.



Annexation

- Therefore, the excess levy must be tied to the CNAV attributed to the annexed area such that the annexed taxpayers should bear some of the burden of that excess levy.
- This means an ELA for an annexation would be approved at least one year after the annexation has occurred.



Consolidation (Reorganization)

1. Consolidation (Reorganization) generally refers to any statutory process by which two or more political subdivisions enters into an agreement to transfer, combine, or share powers, duties, functions, or resources.
 - Ind. Code § 36-1-7-16,
 - Ind. Code § 36-1.5-3-5(a), or
 - Other applicable law.
2. The Consolidation (Reorganization) may identify an initial savings due to the elimination of:
 - Double taxation for services/goods provided by the reorganized political subdivision;
 - Excess by which the amount of property taxes imposed by the reorganized political subdivision exceeds the amount necessary to pay for services or goods.



Consolidation (Reorganization)

- In addition to having a qualifying Consolidation (Reorganization) action, the unit must provide the Department with:
 - The amount requested and justification of the financial need, including an explanation of how the unit will be unable to perform its governmental functions without the appeal.
- The Department will request the unit to provide information related to:
 - (1) Description of facts leading to the Consolidation (Reorganization).
 - (2) All ordinances/resolutions related to the Consolidation (Reorganization).
 - (3) All fiscal impact statements related to the Consolidation (Reorganization).
 - (4) Increase in expenditures by fund and budget category.
 - (5) The impact that the Consolidation (Reorganization) will have on other non property tax revenue sources such as LIT and excise.



Extension of Services

- A unit may not have gone through the annexation or consolidation process, but may find itself either:
 - Providing a new service to their existing geographic area.
 - Providing an existing service to a new geographic area.
- Example of Extension of Services:
 - 1) General Assembly establishing a new county Superior court.
 - 2) Township starting to provide mowing services and cemetery maintenance services previously/historically provided by a nongovernment entity.
 - 3) Municipality establishing a new Parks Department.
 - 4) Library extending their service area into new townships.



Extension of Services

- In addition to having a qualifying Extension of Services event, the unit must provide the Department with:
 - The amount requested and justification of the financial need, including an explanation of how the unit will be unable to perform its governmental functions without the appeal.
- The Department will request the unit provides information relate to:
 - (1) Description of facts leading to the Extension of Services.
 - (2) All ordinances/resolutions related to the Extension of Services.
 - (3) All fiscal impact statements related to the Extension of Services.
 - (4) The increase in the tax base, as a function of net assessed values, from the prior year.
 - (5) Increase in expenditures by fund and budget category.



Annexation/Consolidation/Extension of Services

Other considerations:

- Amount approved may be an average of the increased cost (less any other increases already granted).
- The amount requested must match or line up closely with the fiscal plan.



Three-Year Growth Appeal

- Ind. Code § 6-1.1-18.5-13(a)(2)
- For units that are experiencing significant CNAV growth, the Three-year Growth Appeal provides an excess levy appeal option.
- There is a six-step statutory formula.
- Eligible units must have seen their growth over the same period outpace the Statewide average by at least 2%. (3 Year Unit Growth / 3 Year Statewide Growth \geq 1.02)
- In previous years, the unit's CNAV and statewide CNAV was adjusted by adding in the amount attributed to the homestead supplemental deduction for Pay-2008 and the inventory deduction for Pay-2006. This adjustment was removed in 2022.



Three-Year Growth Appeal

- For a 2023 Pay 2024 three-year growth appeal, the Statewide CNAV growth average was 108.04% $(1.0392 + 1.0541 + 1.1481) / 3$.

Year	Total State CNAV	% Growth from Prior Year
2020	\$322,826,004,525	N/A
2021	\$335,485,346,972	103.92%
2022	\$353,621,576,941	105.40%
2023	\$405,992,932,486	114.81%

- As a courtesy, the Department provides the updated statewide numbers with the excess levy appeal paperwork. Example: [Excess Levy Appeal - Three-Year Growth](#)



Three-Year Growth Appeal – Example #1

	CNAV	Adjusted AV	Growth Percentage (Current Year / Prior Year)
2019	1,446,243,427	1,446,243,427	
2020	1,536,146,053	1,536,146,053	106.22%
2021	1,628,808,452	1,628,808,452	106.03%
2022	1,803,957,923	1,803,957,923	110.75%
Step 3: Three Year Growth	1.0767%		
Step 5: Statewide Average	1.0447%		
Step 3 divided by Step 5	1.0306%		
Eligibility Determination	TRUE		
Step 3 Restated	1.0767%		
2022 MLGQ	1.0500%		
Max Growth Approval Amount	0.0267%		

- The unit’s growth exceeds the Statewide CNAV growth by 1.02. The unit above meets the first criteria for the appeal.



Three-Year Growth Appeal – Example #2

	CNAV	Adjusted AV	Growth Percentage (Current Year / Prior Year)
2019	113,658,926	113,658,926	
2020	117,031,396	117,031,396	102.97%
2021	127,227,071	127,227,071	108.71%
2022	137,062,191	137,062,191	107.73%
Step 3: Three Year Growth	1.0647%		
Step 5: Statewide Average	1.0447%		
Step 3 divided by Step 5	1.0191%		
Eligibility Determination	FALSE	Unit does not qualify for appeal.	
Step 3 Restated			
2022 MLGQ			
Max Growth Approval Amount			

- While the unit is experiencing growth, the unit’s growth does not exceed the Statewide CNAV growth by 1.02. The unit above does not meet the first criteria for the appeal.



Three-Year Growth Appeal

- In addition to meeting the statutory growth factor, the unit must provide the Department with:
 - The justification of the financial need, including an explanation of how the unit will be unable to perform its governmental function without the appeal.
- The Department will request the unit provides information relate to:
 - (1) Increase in expenditures by fund and budget category.
 - (2) Estimated impact to the tax rate.
 - (3) Changes to the non property tax revenue collected.
 - (4) Cash balance and activity in the rainy day fund.



Emergency Levy Appeal

- Ind. Code § 6-1.1-18.5-13(a)(3)
- A levy increase may be granted if a unit cannot carry out its governmental functions for an ensuing calendar year under the levy limitations imposed by Ind. Code § 6-1.1-18.5-3 due to a natural disaster, an accident, or another unanticipated emergency.
- A unit must point to a specific and localized event with a quantifiable impact.
- The following events would not meet the consideration requirement for an excess levy appeal:
 - (1) General economic recession to be an unforeseen emergency.
 - (2) Past fiscal policymaking by a unit to be an unforeseen emergency.
 - (3) General impact to governmental functions due to COVID.



Mathematical or Data Error / Correction of Advertising

- Ind. Code § 6-1.1-18.5-14
- An excess levy may be granted to a unit for the correction of an advertising error, mathematical error, or error in data made at the local level for a calendar year if the error affected the tax rate or levy of the unit or the determination of the unit's maximum levy.
- This appeal contemplates objective and mechanical or typographical errors only. The Department will not consider appeals seeking to correct a unit's past policy decisions.
- The correction cannot be related to refunds or errors made and/or corrected due to assessment appeals. These types of "errors" are addressed through the shortfall appeal.



Mathematical or Data Error / Correction of Advertising

- “Error in data made at the local level”
- The Tax Court has ruled that “error in data” must be an objective error; an error that “is not only readily fixable, but [is easily] observable to someone who did not make it.”
 - Subjective errors, such as errors in interpreting data, will not qualify for an excess levy.
 - For example, budgeting or levying decisions, even when data is used to form that decision.
- Clark County v. DLGF, 12 N.E. 1000, 1004 (Ind. Tax Ct. 2014).



Mathematical or Data Error / Correction of Advertising

- “Error in data made at the local level”
- The Tax Court has ruled that “error in data” must be an objective error; an error that “is not only readily fixable, but [is easily] observable to someone who did not make it.”
- Subjective errors, such as errors in interpreting data, will not qualify for an excess levy.
- Budgeting or levying decisions, even when data is used to form that decision. *Clark County v. DLGF*, 12 N.E. 1000, 1004 (Ind. Tax Ct. 2014).
- Inadvertently recording the wrong number on a proposed budget. *Goshen Pub. Lib. of Elkhart County v. DLGF*, 128 N.E.3d 574, 579-80 (Ind. Tax Co. 2019).



Shortfall Appeal

- Ind. Code § 6-1.1-18.5-16
- “Shortfall” is defined as a unit receiving a property tax distribution less than the unit’s certified levy due to erroneous assessed value estimates or refunds paid on successful assessment appeals.
- A unit filing a shortfall appeal because of a difference in assessed valuation between the certified net assessed value and the county abstract must demonstrate to the Department that the difference was due to an actual error.
 - (1) The difference in assessed valuation between the certified net assessed value and the county abstract does not mean that an error necessarily occurred.
 - (2) The impact of circuit breaker credits or low property tax collections do not constitute a shortfall for purposes of this appeal.



Shortfall Appeal

- Ind. Code § 6-1.1-18.5-16
- Lost revenues shown will be reflected on the Certificate of Error or Certificate of Tax Refund Claims reports generated by the county auditor.
- Shortfall appeals only apply to funds within the maximum levy. Debt funds and certain cumulative funds do not qualify for this appeal.
- Forms & data that must be used to determine shortfall:
 - (1) 127-CER (Register of Certificates of Error).
 - (2) 17-TC (Certificate of County Auditor of Tax Refund Claims).
 - (3) County Form 22 (Certificate of Tax Distribution).
 - (4) Certified budget order for year shortfall is claimed.
 - (5) List of taxing districts for which unit is a part.



Shortfall Appeal

- Ind. Code § 6-1.1-18.5-16
- The shortfall calculation is in two-parts.
 - Part 1: Determine the shortfall in revenue by fund:
 - $\text{Certified Levy} - \text{Actual Distribution} - \text{Circuit Breaker Credits} = \text{Shortfall by Fund}$
 - Part 2: Determine the unit's share of the shortfall by taxing district:
 - $\text{Errors} + \text{Refunds} \times \left(\frac{\text{Unit Tax Rate}}{\text{District Tax Rate}} \right) = \text{Portion of Error \& Refunds}$
- The unit will be eligible for the lesser of the actual shortfall and its portion of errors & refunds in all of its taxing districts.



Shortfall Appeal

- Ind. Code § 6-1.1-18.5-16
- The ELA must show the budget year or years for which the unit is claiming a shortfall.
- The unit may not request an excess levy for a shortfall that occurred more than 5 years before the most recent certified budget.
- This is a temporary appeal. If approved, the amount of the excess levy is not factored into the unit's max levy calculation in future years.
 - This appeal is meant to recover from a shortfall in revenue. It is meant to be a one-off fix.



Shortfall Appeal

- Ind. Code § 6-1.1-18.5-16
- Other considerations
- The shortfall must be due to an actual error, not simply the county auditor withholding CNAV under Ind. Code § 6-1.1-17-0.5.
- The Department will also consider whether in the budget year the unit:
 - Received levy excess (essentially the opposite of a shortfall) in any of its funds.
 - Transferred money to its rainy day funds.



Excess Levy Appeals – Schools

- Ind. Code § 20-46-8-3
- There are two excess levy appeals that are available exclusively to school corporations.
- Schools may appeal to the Department for an increase to its operations fund maximum levy related to:
 - Transportation – at least a 10% increase in costs related to providing transportation related services.
 - Bus Replacement – reflects the school corporation’s bus replacement plan as adopted or as amended.



Transportation Appeal (Schools Only)

- To be granted an increase by the Department, a school corporation must establish that the increase is necessary because of a transportation operating cost increase of at least 10% over the preceding year as a result of at least one of the following:
 - (1) A fuel expense increase.
 - (2) A significant increase in the number of students enrolled in the school corporation that need transportation or a significant increase in the mileage traveled by the school corporation's buses compared with the previous year.
 - (3) A significant increase in the number of students enrolled in special education who need transportation or a significant increase in the mileage traveled by the school corporation's buses due to students enrolled in special education as compared with the previous year.



Transportation Appeal (Schools Only)

- 4) Increased transportation costs due to compliance with a court-ordered desegregation plan.
- 5) The closure of a school building within the school corporation that results in a significant increase in the distances that students must be transported to attend another school building.
- 6) A cost increase due to restructuring or redesigning transportation services due to a need for additional, expanded, consolidated, or modified routes.
- 7) A labor cost increase due to a labor shortage affecting the school corporation's ability to hire qualified transportation employees.



Transportation Appeal (Schools Only)

- Key term is “over the preceding year.” The unit should not use an estimate of the upcoming year’s budget. Certified budget & actual expenses are preferred.
- In addition to having a qualifying Transportation event, the school must also provide the Department with:
 - The amount requested and justification of the financial need, including an explanation of how the unit will be unable to perform its governmental functions without the appeal.
- The Department will request the unit provide information related to:
 - (1) Details related to the cost increase for qualifying transportation events.
 - (2) Information about new transportation positions for the prior three years.
 - (3) ADM, Number of bus routes, and round-trip mileage.



Transportation Appeal (Schools Only)

- There are two methods that the Department may use to calculate the school's qualifying Transportation appeal amount:
 - Method 1: the Department can use the change in the certified budget to determine the percentage increase to apply to the current year max levy.
 - Method 2: the Department may also calculate an increase based on actual expenses incurred by the school corporation instead of the certified budgets.



Transportation Appeal (Schools Only) – Method #1

1.	Certified 2023 Budget	\$1,200,000
2.	Certified 2022 Budget	\$1,000,000
A.	% increase in transportation operating costs (Formula: Line 1 / Line 2)	1.2000
B.	MLGQ	5.0% or 1.050
C.	2022 Transportation Maximum Levy	\$100,000
D.	Levy Increase Allowed (Formula: (Line A - Line B) x Line C)	\$15,000

- In the example above, the school corporation demonstrated:
 - A qualifying transportation event and met the 10% increase.
 - Demonstrated their inability to provide transportation services without the appeal.
- Based on their submitted appeal, they would qualify for a 15,000 increase to their \$100,000 levy:
 - (Budget Growth for Transportation minus MLGQ) times Transportation Levy
 - $(1.2000 - 1.050) * 100,000$



Transportation Appeal (Schools Only) – Method #2

- The Department may also calculate an increase based on actual expenses incurred by the school corporation.
- The Department will provide a template for the school corporation to provide:
 - Actual expenses for the previous 5 years.
 - Combination of actual and estimated expenses for the current year .
- The template will contain commonly impacted school program accounts, but additional local account may be added, as necessary.
 - 25520 Vehicle Operations
 - 25530 Monitoring Services
 - 25540 Vehicle Service Maintenance
 - 25560 Bus Insurance
 - 25570 Insurance on Pupils



Bus Replacement (Schools Only)

- A school corporation may appeal to the Department for an adjustment to its maximum operations levy to reflect the school corporation's bus replacement plan as adopted or as amended.
 - The Department will not consider any bus replacement plan that has only been proposed.
- The Department may approve an amount less than requested by the school corporation.
- An approved appeal will be applied as a one-time permanent adjustment apportioned over the life of the plan.



Bus Replacement (Schools Only)

A	Total Costs of 2023-2027 Bus Replacement Plan	\$2,000,000
B	Total Costs of 2022-2026 Bus Replacement Plan	\$1,500,000
C	# of Years for Which Increased Need Has Been Shown	5
	(Line A - Line B) / Line C = Potential Levy Increase Allowed	\$100,000

- School corporation’s bus replacement plan included a 500,000 increase in expenses over the five-year plan.
- The Department approved the appeal and will apply as a one-time permanent adjustment apportioned over the life of the plan for 100,000.
- Over the next 5 years, this increase will generate \$500,000 in certified levy for the school corporation.



Submission Procedures



Procedures – Ind. Code § 6-1.1-18.5-12

- The deadline for submitting an ELA is
 - October 19 for all appeals except a shortfall.
 - December 30 for a shortfall appeal.
 - For other appeals, the deadline specified in the statute.
- In addition to meeting a qualifying action, in most cases, the civil taxing unit must also demonstrate that it will be unable to carry out its governmental functions without the additional levy approval.
- The unit must support their petition by providing reasonably detailed statements of fact. The Department will examine and consider the merits of the petition based on the information provided by the unit.



Procedures – Ind. Code § 6-1.1-18.5-12

- “Unable to perform government functions” is a fact-specific inquiry. The petitioning unit should detail the circumstances that illustrate its need for relief from levy limits.
- It is not advisable to resort to stock phrases, catch-all's, and generic descriptions of need.
 - “We are requesting an excess levy because we are not able to perform government functions without it” is not going to fly.
 - While many units (especially of the same type) will have the same sorts of government functions, units will fulfill those functions differently.
- The Department reserves its statutory right to ask the unit for more information. The goal here is not to interrogate, but to get a better understanding of the appeal.
 - An excess levy is still taxpayer dollars.



Procedures – Ind. Code § 6-1.1-18.5-12

- Upon receipt, the Department shall immediately consider the merits of the appeal.
- In considering an excess levy appeal, the Department may:
 - (1) Conduct hearings;
 - (2) Require any officer or member of the appealing unit to appear before it;
 - (3) Require any officer or member of the appealing unit to provide relevant records or books.
- The Department can file with a local court to hold a petitioning unit's official in contempt for failure to respond to a subpoena.
- If filing for a shortfall appeal, the fiscal officer must file a copy of the ELA with the county auditor and county treasurer.
- The Department is not required to conduct hearings and does not violate a unit's due process rights when no hearing is held on an ELA. Clark County, 12 N.E.3d at 1006.



Submission Procedures

- The Department provides excess levy appeal templates for civil and school appeals.
 - It is not required that a unit use the template. *Union Twp., St. Joseph County v. DLGF*, 45 N.E.3d 523, 527 (Ind. Tax Co. 2015).
 - Use of the templates is encouraged to facilitate efficient review of the ELA.
- Each appeal has a separate workbook with
 - (1) Appeal specific questions.
 - (2) List of documents required for a complete submission.
- Excess Levy appeals may be submitted directly to your Field Representative.



Additional Information



Advertisement Requirements

- Indiana Code § 6-1.1-17-3(a)(6) requires that the budget notice (Form 3) must include “the amounts of excessive levy appeals to be requested.”
- So far, we have only been talking about appeals described in Ind. Code § 6-1.1-18.5-12 through 16 & Ind. Code § 20-46-8-3. But there are other statutory adjustments allowed in other laws.
 - What is an “excessive levy appeal”? The term is not defined here.



Advertisement Requirements

- The Department defaults to ELAs under Ind. Code § 6-1.1-18.5-12, Ind. Code § 20-46-8-3, and special legislation.
 - Where requested amounts are known.
 - Where the Department has discretion to approve or deny (not necessarily with special legislation).
 - Timing of request; not all statutory adjustments are determined in fall/winter budget season.
- Transparency to the public is also a consideration.



Advertisement Requirements

1 Fund Name	2 Budget Estimate	3 Maximum Estimated Funds to be Raised (Including appeals and levies exempt from maximum levy limitations)	4 Excessive Levy Appeals (Included in Column 3)	5 Current Tax Levy	6 Levy Percentage Difference (Column 3 / Column 5)
0061-RAINY DAY	\$350,000	\$0	\$0	0	
0101-GENERAL	\$1,888,300	\$1,106,007	\$75,000	909,056	21.67 %
0180-DEBT SERVICE	\$1,280,193	\$1,300,000	\$0	1,191,874	9.07 %

- As established earlier, there are excess levy appeals with a specific calculation, but the Department cannot approve an excess levy appeal amount greater than the amount advertised on the Form 3.
- Units considering applying for an excess levy appeal must include an appeal amount on their Form 3 (Notice to Taxpayers) in Column 4. Failure to include will jeopardize appeal.
- Note: The amount in “excess levy appeal amount” Column 4 must also be included in the “maximum estimated funds to be raised” amount in Column 3.



Excess Levy Appeals – Submission Deadlines

Excess Levy Appeal Type	Deadline for Submission to the Department
Annexation/Consolidation/Extension of Services	October 19
Three Year Growth	October 19
Emergency	October 19
Mathematical, Correction of Advertising, or Data Error	October 19
Transportation (School Only)	October 19
Bus Replacement (School Only)	October 19
Shortfall*	December 30

- If a unit indicates their intent to file a shortfall appeal, the Department’s budget certification for the entire county moves from December 31 to January 15.



Frequently Asked Questions



FAQ #1 – Request for Reconsideration

- *Question: The Department partially approved/denied my appeal. What are the steps to appeal the Department's determination?*
- Answer: Statute does not contemplate a process to appeal the decision to the Department. Reconsideration is at the discretion of the Department.
 - If an appeal was partially approved/denied, there was not sufficient, detailed information to justify the requested increase from the unit.
 - Units must take care to provide the Department with all relevant facts and documentation to support their appeal on their initial submission.
- Ind. Code § 6-1.1-18.5-15 provides that the unit may petition the Indiana Tax Court for judicial review.



FAQ #2 – Circuit Breaker

- *Question: My units loses X% of my levy each year to circuit breaker (“CB”). Which type of appeal can I file for CB losses?*
- Answer: There is not an appeal that will allow a unit to increase its levy due to the impact of CB loss.
- Even the shortfall appeal explicitly excludes the CB loss as a qualifying event.
- Except for school operating referenda, Ind. Code § 6-1.1-20.6-9.5(b) prohibits a unit from increasing its property tax levy to make up for CB loss.



Questions?



Contact Us

- Gateway Support: support@dlgf.in.gov
- (317) 232-3777
- Website: www.in.gov/dlgf
 - “Contact Us”: www.in.gov/dlgf/2338.htm
- Budget Field Representative Map: <https://www.in.gov/dlgf/files/maps/Field-Rep-Map-Budget.pdf>