

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE N1058(B)
INDIANAPOLIS, IN 46204
PHONE (317) 232-3777
FAX (317) 974-1629

TO: Civil Political Subdivisions

FROM: Anna Culy, Budget Director

DATE: August 5, 2025

SUBJECT: Review of Excess Levy Appeals

The Department of Local Government Finance (“Department”) issues this memorandum to inform civil taxing units (“units”) of the criteria the Department uses in determining whether a unit is eligible for an excess maximum levy appeal (“appeal”). Ind. Code § 6-1.1-18.5-12 allows a qualified unit to appeal to the Department for relief from its levy limitations after the unit has determined that it cannot carry out its governmental functions under those levy limitations for the ensuing calendar year. The Department must then examine the merits of the unit’s claim.

For the Pay 2026 budget calendar year, the appeal deadline for all appeals other than a shortfall appeal is October 21, 2025. Late submissions will not be considered. Completed appeals should be submitted directly to the unit’s [Budget Field Representative](#) electronically.

Appeals are fact-sensitive inquiries. Ind. Code § 6-1.1-18.5-12(a) requires a unit to support its claim for an appeal with reasonably detailed statements of fact. In evaluating the merit of an appeal, the Department takes a “needs-based” approach based on the information presented and the provisions of the Indiana Code. The Department expects a unit submitting an appeal to thoroughly detail the appeal, the basis of the appeal (including circumstances as a result of legal or statutory processes), and the numbers used to arrive at the excess levy requested. The unit’s explanation must be clear and well-documented. The burden of proof rests with the unit. **Simply stating that the unit cannot perform its government functions without an excess levy or that the unit is experiencing continuing growth, absent a substantive explanation, is insufficient and will be grounds for denial.** The Department will rely on the explanations and documentation provided by the unit as submitted. The Department has the authority, under Ind. Code § 6-1.1-18.5-12(c), to require the production of additional evidence and records.

If an appeal is approved, the appeal amount is incorporated into the unit’s maximum levy prior to certification of budgets, property tax rates, and property tax levies for the unit for the ensuing year. A decision by the Department on the appeal is final. **The Department may deny or modify an excess levy appeal on the basis that the unit has sufficient fund balances to allow it to carry out its governmental functions.** The Department will also take circuit breaker credits into consideration when estimating fund balance amounts; however, appeals are not allowed to recover losses due to circuit breaker credits.

Effect of Senate Enrolled Act 1-2025

Sections 61 and 62 of Senate Enrolled Act 1-2025 (“SEA 1”) eliminated excess levy appeals on the basis of three-year growth, extension of services, and consolidation, effective January 1, 2026. Section 245 of SEA 1 attempted to apply sections 61 and 62 to appeals filed for Pay 2026; however, the effective date of that section is also January 1, 2026. Therefore, civil taxing units are still able to file excess levy appeals for three-year growth, extension of services, and consolidation for Pay 2026 taxes.

Although not technically an excess levy appeal under Ind. Code § 6-1.1-18.5-12, an appeal by a school corporation for transportation and bus replacement expenses under Ind. Code § 20-46-8-3 was eliminated by section 224 of SEA 1, effective July 1, 2025. Therefore, school corporations will no longer be able to file transportation or bus replacement appeals starting with Pay 2026 taxes.

General Questions Regarding Each Appeal

The Department will consider the following questions in reviewing an appeal, as applicable, and expects the taxing unit to answer the appropriate questions in their appeal. **Failure to do so will result in automatic denial of the appeal without reconsideration.**

The Department may consider the following factors in reviewing an appeal:

1. What is the percent increase in the rate due to the appeal?
2. What is the percent increase of the levy due to the appeal?
3. Is the taxing unit affected by circuit breaker credits?
4. Will the appeal result in circuit breaker credits applied either against the taxing unit or other taxing units?
5. Has the unit experienced levy excess in recent years?
6. What is the taxing unit’s history of excess levy appeals? Has the unit received any other increases to its maximum levy as allowed by law other than through an excess levy appeal?
7. Are there TIF districts located within the unit?
8. What is the unit’s fund balance as a percent of its budget?
9. What will be the effect on the unit if the appeal is denied?
10. If the appeal is for a correction of an error, what is the error?
11. If the appeal is due to a three-year growth of assessed value, is the amount of excess levy the unit would be eligible for tied to a specific expense the unit deems essential or necessary?
12. If the appeal is due to an emergency, what is the emergency?
13. If the appeal is due to annexation, consolidation, or extension of services, what is the expected increase in assessed value?
14. If the appeal is due to an annexation, has the adjustment under Step Three of Ind. Code § 6-1.1-18.5-3(a) been applied and considered before filing the appeal?

15. If the appeal is due to an extension of services, what are the services being provided?
Have the services not been provided by the civil taxing unit previously? Are the services being provided to a new geographic area by the civil taxing unit?
16. If the appeal is being filed with the intent of hiring new staff, what are the specific positions being added and the base salary and benefits?
17. If the appeal is being filed with the intent of providing increases to salaries and benefits, what are the positions that will have their salaries and benefits increased, and by how much?
18. What will be the impact on the income tax and excise tax distributions?
19. Is the taxing unit filing an appeal for the purpose of increasing its local income tax distribution relative to other taxing units in the county?
20. If the appeal is due to annexation, does the amount of the appeal reflect the fiscal plan as originally submitted? Does the percent increase in maximum levy mirror the percent increase in assessed value?
21. If the appeal is due to a three-year growth of assessed value, is the increase in assessed value due to an annexation, consolidation, reorganization, extension of services, or other positive change in the unit's boundaries affecting its tax base?
22. Was there opposition or objection to the appeal?
23. What was the vote by the fiscal body approving the appeal?
24. Was the appeal advertised through the ensuing year's budget advertisement?
25. Is the appeal a permanent or temporary increase to the maximum levy?
26. Overall, what is the tax impact on taxpayers?

Additional Factors Evaluated by the Department

1. The Department may deny or modify an excess levy appeal on the basis that the unit has sufficient fund balances to allow it to carry out its governmental functions. **To that end, there will be a rebuttable presumption that maintaining a cumulative operating balance of twenty percent (20%) or more for the civil taxing unit's levy-controlled funds is sufficient.**
2. The Department will also take circuit breaker credits into consideration when estimating fund balance amounts. **However, appeals are not allowed to recover losses due to circuit breaker credits.**
3. A taxing unit should not submit any appeal for which the purpose of the levy increase is to increase other sources of revenue available to the taxing unit; for example, local income tax revenues. **The Department will also adjust any approved levy by the expected increase in excise tax and local income tax distributions to the taxing unit in the affected distribution years, all else being equal. The taxing unit may not request that the Department not apply these adjustments.**
4. A taxing unit that has received increases to the unit's maximum levy other than by the maximum levy growth quotient, including excess levy appeals, one (1) or more times each year in three (3) of the last five (5) years will need to demonstrate how any approved excess levy in those years has not satisfied the taxing unit's needs to continue

to perform government functions under Ind. Code § 6-1.1-18.5-12(a). **Failure to provide a substantive and satisfactory response will result in the denial of the appeal.**

5. An appeal in which the taxing unit failed to provide the information requested in the applicable attached templates will result in the denial of the appeal. The taxing unit may not file an incomplete appeal before the October 21 deadline with a request to consider it timely filed pending additional information. Such an appeal will be automatically denied.
6. Please note that Ind. Code § 6-1.1-17-3(a)(6) requires that any request for an excess levy appeal be advertised as part of the notice to taxpayers of the estimated budget. Failure to comply with Ind. Code § 6-1.1-17-3(a)(6) will be cause for denial.

Types of Appeals

Indiana Code § 6-1.1-18.5 permits the Department to provide relief for the following types of claims:

1. Annexation, consolidation (reorganization), or extension of services.
2. Three-year growth factor exceeding 2% of the statewide average.
3. Correction of advertising errors, mathematical errors, or errors in data.
4. Shortfall due to erroneous assessed valuation.
5. Emergency.

Please use the appropriate petition form for the type of appeal requested. Further information about how to complete the petition is included with each petition. Failing to complete the petition may result in delays or potential denial of the appeal. If necessary, add any relevant supplemental materials to substantiate claims made in the appeal, including but not limited to claims of the excess levy being necessary to continue government functions.

Questions may be directed to the Department's [Budget Field Representatives](#).