

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 413

March 2019

REMINDER OF ORDER OF BUSINESS

April

- 1 On or before April 1 is the last regular day for filing applications for tax exemption by Churches, Educational and Charitable organizations. (IC 6-1.1-11-3)

On or before April 1, of each even numbered year, the County Auditor shall provide to the County Assessor a list by taxing district of property for which a tax exemption was in effect for the immediately preceding year. (IC 6-1.1-11-5)
- 15 Members of Tax Adjustment Board to be appointed before this date to serve one year in counties that have not abolished such board. (IC 6-1.1-29-2) Abolishment of the board is provided under IC 6-1.1-29-9.
- 23-25 State Board of Accounts called meeting for County Recorders – Indianapolis
- 19 Good Friday – Legal Holiday (IC 1-1-9-1)
- 30 Last day to file quarterly report of federal withholding tax with Director of Internal Revenue Service.

May

- 1 Prepare report of school funds to Auditor of State and make payment of principal and interest due to Treasurer of State on the Common and Permanent Endowment Funds, and pay the Treasurer of State all fines and forfeitures on hand April 30, 2019, as shown in this report. (IC 20-42-1-6)
- 10 First installment of property taxes due. (IC 6-1.1-22-9)
- 15 Due date for personal property tax returns and filing for exemption. (IC 6-1.1-3-1.5) (IC 6-1.1-3-7.2)
- 17 May file a certification of the taxpayer's eligibility for the exemption instead of indicating the eligibility for the exemption on the taxpayer's personal property tax return before this date.
- 21-24 State Board of Accounts called meeting for County Auditors – French Lick
- 27 Memorial Day – Legal Holiday (IC 1-1-9-1)

REMINDER OF ORDER OF BUSINESS
(Continued)

June

- 1 Last date for filing County Highway Annual Operational Report with the State Board of Accounts and other governmental agencies. (IC 8-17-4.1-7)
- On or before this date the County Auditor shall search the records to ascertain if person so certified is delinquent in payment of Property Taxes and certify to Auditor of State and state agencies the names of state employees owing delinquent taxes. (IC 6-1.1-22-14)
- County Treasurer to prepare a list of persons owing delinquent taxes and believed to have money due from Auditor of State, Indiana Department of Transportation or any state institution or state school and furnish the list to those agencies on or before June 1. (IC 6-1.1-22-16)
- 11-12 State Board of Accounts called meeting for Clerk of the Circuit Courts - Indianapolis
- 20 On or before June 20th and December 20th of each year, the county auditor and the county treasurer shall meet in the office of the county auditor. Before each semi-annual meeting, the county auditor shall complete an audit of the county treasurer's monthly reports required under IC 36-2-10-16. In addition, the county auditor shall: (1) prepare a certificate of settlement on the form prescribed by the state board of accounts; and (2) deliver the certificate of settlement to the county treasurer at least two (2) days before each semi-annual meeting. (IC 6-1.1-27-1(a))
- 29 State Board of Accounts called meeting for County Council - Shelbyville
- 30 Immediately after each semi-annual settlement, the county auditor shall send a copy of the certificate of settlement and a statement of the distribution of the taxes collected to the state auditor. On or before June 30th and December 31st of each year, the county treasurer shall pay to the state treasurer the money due the state as shown by the certificate of settlement. (IC 6-1.1-27-3)
- Last day for County Treasurer to certify list of real property eligible for tax sale to County Auditor if May 10 was first payment due date.
- On or after January 1 of each calendar year in which a tax sale will be held in a county and not later than fifty-one (51) days after the first tax payment due date in that calendar year, the County Treasurer shall certify to the county auditor a list of real property eligible for tax sale. (IC 6-1.1-24-1(a))

OBSOLETE VOLUMES

All articles from Volumes 367 and earlier of *The County Bulletin* have now been updated and are no longer applicable; thus Volumes 367 and earlier may be deleted from your file.

A complete index to *The County Bulletins* is available on our website.

DEPUTY PROSECUTING ATTORNEYS

IC 33-39-6-2 states how many deputy prosecuting attorneys may be appointed, the circumstances, and compensation as follows:

“(a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

(1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.

(3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The prosecuting attorney of Cass County may appoint one (1) additional deputy prosecuting attorney.

(f) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (e) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(g) The salaries provided in this section shall be paid by the state once every two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in this chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(h) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit

PROSECUTING ATTORNEY - EXPENSE FOR ATTENDING ATTORNEY GENERAL CONFERENCES

Reimbursement for expenses for the prosecuting attorney for attending conferences called by the attorney general is governed by IC 33-39-6-1(e) which states in part: "The expenses necessarily incurred by a prosecuting attorney in attending any such conference, including the actual expense of transportation to and from the place where such conference is held, together with his meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor."

Mileage reimbursement would be at the then current rate. If two (2) or more prosecuting attorneys ride together, mileage should only be paid to the person furnishing the automobile. Reimbursement for hotel or motel room would be actual single occupancy room rate. If a spouse or some other person who is not a prosecuting attorney accompanies the prosecuting attorney a statement showing the single occupancy room rate should accompany the bill for lodging. If two (2) or more prosecuting attorneys share the same room each person would only be entitled to reimbursement for his (her) proportionate share of the room charges. Charges for telephone, (other than actual business) pay movies, alcoholic beverages, etc., are the personal expense of the prosecuting attorney and should not be included in the reimbursement by the county.

Reimbursement for meals would be actual expenses unless a flat rate allowance for meals has previously been established as a part of the county personnel policy.

IC 33-39-6-1 makes no mention of this expense being paid without an appropriation. Therefore, it would appear that an appropriation should be obtained prior to payment being made.

SMALL CLAIMS CASES – TRIAL BY JURY

IC 33-28-3-7 requires that an additional seventy dollar (\$70) fee be paid when a defendant demands a trial by jury for an action filed as a small claims action. The claim is then transferred to the plenary docket. Upon transfer, the claim loses its status as a small claim.

CANCELLATION OF WARRANTS – OLD OUTSTANDING CHECKS

Pursuant to IC 5-11-10.5, all warrants or checks outstanding and unpaid for a period of two or more years as of December 31 of each year are void.

IC 5-11-10.5-3 states in part: "Not later than March 1 of each year, the treasurer of each political subdivision shall prepare or cause to be prepared a list in triplicate of all warrants or checks that have been outstanding for a period of two (2) or more years as of December 31 of the preceding year. The original copy of each list shall be filed with the:

- (1) board of finance of a political subdivision; or
- (2) fiscal body of a city or town.

The duplicate copy shall be transmitted to the disbursing officer of the political subdivision. The triplicate copy of each list shall be filed in the office of the treasurer of the political subdivision...."

POLITICAL AND PERSONAL EXPENDITURES PROHIBITED

Governmental funds and assets should not be used in a manner unrelated to the functions and purposes of the governmental unit. This prohibition includes expenditures for political purposes, contributions to political campaigns, directly or indirectly which are not authorized by statute. Public funds used for political or personal reasons shall be the personal obligation of the responsible official or employee.

EXCESS TAX COLLECTED – SURPLUS TAX FUND – UNCLAIMED FUNDS

Any payments in excess of the taxes and special assessments actually due, as shown on the tax duplicate or special assessment records, shall constitute a special fund to be known as a “surplus tax fund.” Amounts placed in such fund shall first be applied to delinquent taxes in the manner set forth in IC 6-1.1-23-5(b). Any amounts remaining shall be disbursed to the party entitled thereto, on the warrant of the county auditor after approval of such claim by the county auditor and the treasurer.

Not less frequently than at the time of each semiannual settlement, the treasurer shall prepare a schedule on County Form 65SFT, Surplus Tax Fund Ledger, of all excess payments received showing the name on the tax duplicate, the amount of the excess paid, and the taxing district, and deliver the schedule to the county auditor. Within fifteen (15) days after receiving the schedule, the county auditor shall review the schedule, and if the county auditor concurs with the schedule, the county auditor shall notify the county treasurer that the notice may be sent. The county auditor shall preserve the schedule and, if a refund is made thereafter, shall further note thereon the date and amount of each item refunded. In addition, when money is transferred from the surplus tax fund to the county general fund, the county auditor shall note the date and amount of the transfer on the schedule.

If an excess payment is not claimed within the three (3) year period after November 10 of the year in which it was paid and the county treasurer has given the written notice, the county auditor shall transfer such sum into the general fund of the county and it shall not thereafter be refunded. (IC 6-1.1-26-6) This type of “excess” collection is not to be confused with tax sale surplus items.

This subsection applies only if the amount of an excess payment is more than five dollars (\$5) and exceeds the amount applied to property taxes that are delinquent at the time that the excess payment is transferred to the surplus tax fund. Not later than forty-five (45) days after receiving the notification from the county auditor, the county treasurer shall give the taxpayer who made the excess payment written notice that the taxpayer may be entitled to a refund. The notice shall be mailed to the last known address of the taxpayer as listed on the tax duplicate of the most current record of the county treasurer. The notice must contain at least the following information:

- (1) A statement that the taxpayer may be entitled to a refund because the taxpayer made an excess payment.
- (2) The amount of the refund.
- (3) Instructions on how to claim the refund.
- (4) The date before which the refund must be claimed.
- (5) An explanation that the amount of the refund will be reduced by any amount applied to property taxes that are delinquent.

RESPONSIBILITY FOR ESTABLISHING VACATION, SICK LEAVE, PAID HOLIDAYS, AND OTHER SIMILAR BENEFITS

IC 5-10-6-1(b) states: “Employees of the political subdivisions of the state may be granted a vacation with pay, sick leave, paid holidays, and other similar benefits by ordinance of the legislative body of a county, city, town, township, or controlling board of a municipally owned utility, board of directors or regents of a cemetery, or board of trustees of any library district.”

It is imperative that the county adopt a policy regarding leave rules and other benefits. The State Board of Accounts will be auditing to see that the employees of the county are following the adopted policy.

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CLERKS OF THE CIRCUIT COURT – JUDGMENTS COLLECTED ON OVERWEIGHT VEHICLES

The clerk of the circuit court shall receipt all overweight infraction judgments separately on the Clerks Official Receipt and post to a separate column labeled “Overweight Vehicles” in the Clerks Cash Book of Receipts and Disbursements. The clerk of the circuit court shall then remit such collections separately to the county auditor on a monthly basis on the Monthly Report - Clerk of the Circuit Court (Form 46CR).

The county auditor shall quietus the collections reported by the clerk of the circuit court to a separate fund entitled “Overweight Vehicles.” Amounts quietused to this fund shall then be remitted monthly to the Auditor of State designated as overweight vehicle fines.

REGISTRATION OF BAIL AGENT’S AND RECOVERY AGENT’S LICENSES

IC 27-10-3-17 states: “(a) A bail agent may not become a surety on an undertaking unless the bail agent has registered the bail agent’s license in the office of the sheriff and with the clerk of the circuit court in the county in which the bail agent resides. The bail agent may then become a surety in any other county upon filing a copy of the bail agent’s license in the office of the sheriff and with the clerk of the circuit court in the other county. A surety bail agent must also file an original qualifying power of attorney signed by the bail agent and attached to a specimen bail bond with the clerk of the circuit court and file a copy of the qualifying power of attorney with the office of the sheriff. The clerk of the circuit court and the sheriff shall not permit the registration of a bail agent unless the bail agent is currently licensed by the commissioner of the Department of Insurance under this article.

(b) a recovery agent may not perform the recovery agent’s duties unless the recovery agent has registered the recovery agent’s license within fifteen (15) days of issuance or any renewal in the office of the sheriff and with the clerk of the circuit court in the county where the recovery agent resides. The clerk of the circuit court and the sheriff may not permit a registration unless the recovery agent is properly licensed by the commissioner [of the Department of Insurance added by State Board of Accounts].”

A fee for these registrations may be charged if a County enacts a home rule ordinance setting the fee in accordance with IC 36-1-3-1 et seq.

APPROPRIATIONS – INSURANCE CLAIM PROCEEDS

IC 6-1.1-18-7 states: “Notwithstanding the other provisions of this chapter, the fiscal officer of a political subdivision may appropriate funds received from an insurance company if:

- (1) The funds are received as a result of damage to property of the political subdivision; and
- (2) The funds are appropriated for the purpose of repairing or replacing the damage property.

However, this section applies only if the funds are in fact expended to repair or replace the property within the twelve (12) month period after they are received.”

APPROPRIATION REFUNDS

IC 6-1.1-18-9 states: “Notwithstanding the other provisions of this chapter, the proper officer or officers of a political subdivision may:

- (1) reappropriate money recovered from erroneous or excessive disbursements if the error and recovery are made within the current budget year; or
- (2) refund, without appropriation, money erroneously received.”

PETITION AND REMONSTRANCE PROCESS VS PETITION FOR A PUBLIC QUESTION PROCESS

Both the petition and remonstrance process and the petition for a public question process are applicable for a controlled project. The deciding factor of which is to be used is based upon the cost of the project. The cost guidelines can be found under IC 6-1.1-20-3.1 for the petition and remonstrance and IC 6-1.1-20-3.5 for the public question. The State Board of Accounts prescribes the forms for both processes as follows:

Petition and Remonstrance phase I under IC 6-1.1-20-3.1 forms 201K-201N

Petition and Remonstrance phase II under IC 6-1.1-20-3.2 forms 201-201J, 201O

Public Question under IC 6-1.1-20-3.5 forms 202K-202N

These forms are to be used solely for these processes and not for other types of petitions. Per IC 6-1.1-20-3.1(b)(5) and IC 6-1.1-20-3.5(b)(5) the county voter registration office is to issue these forms to the petitioners upon their request. Please contact our office for copies of these forms and any questions on their implementation.

AUDIT COSTS

As of 2019 The State Board of Accounts will be charging as \$210 processing fee for the schools extra-curricular accounts (ECA). This will still be directly billed to the counties for withholding on the distribution line but will be identified separately. The billing and collecting of audit costs will remain the same as IC 5-11-4-3(b) states in part: " Immediately upon receipt of the certified statement, the county auditor shall issue a warrant on the county treasurer payable to the treasurer of state out of the general fund of the county for the amount stated in the certificate. The county auditor shall reimburse the county general fund, except for the expense of examination and investigation of county offices, out of the money due the taxing units at the next semiannual settlement of the collection of taxes."

Therefore, counties shall continue to forward examination of record payments to the Treasurer of State for school corporation audits and examinations when billed by the State Board of Accounts. The county general fund shall then be reimbursed from property tax collections of that school corporation at the next semiannual settlement. The school corporation may direct the county auditor to reduce the distributions of a specific fund or multiple funds that continue to have property tax levies for the examination of records expense.

CISCO WEBEX MEETINGS

The State Board of Accounts is implementing new technology tools to assist with communication and trainings in the near future. This new technology will allow for video conferencing and file sharing to enhance communication. We recommend downloading the Cisco Webex Meetings Desktop Application from <https://www.webex.com/downloads.html>. You will still be able to attend the Webex Meetings by clicking a link that you will receive once you are invited to join a future meeting without the application. However, we have found that there are less technical issues when using the application rather than a web browser. Once the application is installed, you will not need to enter your email or enter any URL. You will not have to login at all. The purpose of installing the desktop app is for when you're invited into a Webex meeting and you click a link to join, it will open in the desktop application. There may be additional add-ins needed once the application is downloaded. Once the meeting opens in the web browser click on the three dots and select switch to desktop app, a webpage will appear to have you download the add-ins. Downloading this application is free and allows you to join meetings without a subscriptions, however, if hosting meetings is something you are interested in a paid subscription to Webex would be required. Your IT department may be able to assist you with this process.

COURT EMPLOYEES

We are aware that the judicial branch is an independent and separate department of the state government, Ind. Const., Art. 3, § 1. County government has no judicial branch under Indiana law. Art. 6, § 2, of the Indiana Constitution, which designates county officers, contains no reference to judges. Accordingly, Article 2 of Title 36 of the Indiana Code relating to county government makes no reference to any county judicial office. Circuit courts bear the name of the county in which they are located, and the judges are elected at the same time as county officers, but the court is not a part of the county government, and the judges are not county officers. *State ex rel. Bailey v. Webb*, 21 N.E.2d 421 (Ind. 1939).

Indiana law makes it clear that judges control the administration of their courts including the personnel and terms of employment. County officials cannot control or direct the operation of a court, including questioning the payment arrangement for court personnel, *State v. Monfort*, 723 N.E.2d 407 (Ind. 2000), *State ex rel. Hovey v. Noble*, 118 Ind. 350 (Ind. 1889).

Indiana law does provide, however, that county government directly finance the operation of Indiana's state trial court system. This includes supplemental payments to the state salaries of judges, together with the entire salaries of support court personnel. State trial court facilities and equipment are also provided directly by county government. Each "county officer" is required to submit a budget estimate each year. Ind.Code § 36-2-5-5. However, since a judge is not a "county officer," each trial court's budget estimate must be prepared by the clerk of the court, approved by the judge, and then submitted to the county auditor. Ind.Code § 36-2-5-6. *Pruitt v. Kimbrough*, 536 F. Supp. 764 (U.S. District Court N.D. Ind., 1982).

The State Court Administration staff has written articles on the relationship between courts and county government. Please see the article "Should You Have an Employee Handbook" in the December 2012 issue of Courttimes. The second paragraph of the article states:

"Courts are different from the county entities in their home county. The judges are state officials rather than county officials. However, the judges' employees are not state employees. Although the employees receive pay and benefits from the county, they are separate and apart from other county employees. It's important for each court to consider this when deciding whether to have a handbook just for court employees."

Please also see the article "Employee Handbooks: Neither Fish Nor Fowl" in the February, 2011 issue of Courttimes. The first paragraph of this article states in part:

"The legal status of court employees is both unique and confounding. A myriad of statutes require the counties to provide space and funding so that the courts may operate. The circuit and superior courtrooms are the showpiece of most county facilities. The healthcare and pension benefits provided to court employees are the benefits provided to other county employees. The court employees receive a paycheck and W-2 from the county that looks like every other county employee's payroll information. When a county employee has questions about benefits, the employee most likely goes to the county auditor, and the county auditor may well have distributed a county employee handbook to the court employees..."

We receive many questions from both county officers and court officials on the independence of the court from county control. It is our audit position that if the court has established personnel policies for the court employees, we would audit compliance with those policies. However, if the court has determined to rely on the county personnel policies, then we would audit compliance for court employees against the county's personnel policies. With respect to the time-keeping issue, it is our audit position that although a county judge cannot be required to use the time reporting system utilized by county employees, the judge must require his employees to document their time worked and he must allow the payroll claims for the court employees as required by Indiana Code § 5-11-10-1.6(c)(5).

OFFICE INQUIRIES

Letters written to this office should be addressed to the State Examiner, 302 West Washington Street Room E-418, Indianapolis Indiana 46204-2765. This will permit us to give prompt attention to your letter.



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AMOUNTS AUTHORIZED TO BE RECEIVED BY SHERIFFS FOR BOARD OF PRISONERS

By authority of IC 36-8-10-7, I, Paul D. Joyce, CPA, State Examiner of the State Board of Accounts, do hereby fix the exact amount per meal which the sheriff of each county in the State of Indiana, shall be entitled to receive for feeding prisoners legally in his charge, including Federal prisoners, for a period of one year, beginning April 15, 2019. Amounts received by the sheriff from the Federal government for board and care of Federal prisoners shall be paid into the County General Fund.

In determining and fixing the amount per meal, the use of wholesome food in quantities and varieties necessary for the preservation of the health of the prisoners is contemplated. All expenses related to preparing and serving meals, except for the costs of food, shall be borne by the county.

The amounts fixed are for meals actually served such prisoners during each respective month. Not more than three meals at county expense are to be served to any one prisoner in any one day.

The term "month" shall mean a period of time beginning April 15, 2019 and thereafter ending on the fourteenth (14th) day of each succeeding month. Claims for meals for the month beginning December 15th will be paid from the appropriation for the succeeding year.

For number of meals served during a period of one month, per meal:

In counties having a population of less than 20,000	\$2.00
In counties having a population of 20,001 to 40,000.	\$1.94
In counties having a population of 40,001 to 60,000.	\$1.85
In counties having a population of 60,001 to 80,000.	\$1.63
In counties having a population of 80,001 to 100,000.	\$1.39
In counties having a population of 100,001 to 200,000.	\$1.26
In counties having a population of 200,001 or over.	\$1.18

The following counties will not be allowed the amounts authorized above:

- Allen
- Lake
- Marion
- Vanderburgh

Paul D. Joyce CPA
State Examiner

Dated this 1st day of March, 2019
LR/SH/RH