

# CITIES AND TOWNS BULLETIN

ISSUED BY STATE BOARD OF ACCOUNTS

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March 2025

## STATE BOARD OF ACCOUNT CONTACT INFORMATION

**SBOA Homepage:** [www.in.gov/sboa](http://www.in.gov/sboa)

*(for information specific to Cities & Towns, select Political Subdivisions and then select City or Town as applicable)*

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Beth Goss and Mitch Wilson

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**Phone Number:** (317)232-2513

**Gateway Help Desk:** [gateway@sboa.in.gov](mailto:gateway@sboa.in.gov) or [AnnualReports@sboa.in.gov](mailto:AnnualReports@sboa.in.gov)

*(either email address will take you to the helpdesk)*

**SBOA Communications:** [communications@sboa.in.gov](mailto:communications@sboa.in.gov)

**2024 Indiana General Assembly – link for Indiana Code search:**

<https://iga.in.gov/laws/2024/ic/titles/1>

## UPCOMING TRAINING

The State Board of Accounts will be presenting at the 2025 Chief of Police Executive Program on April 21<sup>st</sup> at the Law Enforcement Academy. The Cities & Towns GTAC Directors will instruct the new police chief over how to account for their funds.

## GATEWAY HOUSEKEEPING

The Indiana Business Research Center (IBRC) will be conducting maintenance within Gateway in the coming months to optimize storage space. As part of this effort, older Monthly and Annual Engagement uploads will be removed. Going forward, the only documentation retained in Gateway will be records from years that have not yet been audited by the SBOA, along with the most recent year following an audit.

We want to remind everyone that Gateway is not intended as a document storage system. Each governmental unit is responsible for maintaining its own records in accordance with applicable retention laws.

## MOVING TRAFFIC VIOLATIONS – STATE EXAMINER DIRECTIVE 2015-1

IC 36-1-6-3(c) states that an ordinance defining a moving traffic violation may not be enforced in an ordinance violations bureau. Moving traffic violations must be enforced in accordance with IC 34-28-5 which requires such cases to be heard in any circuit, superior, county, city, or town court or traffic violations bureau designated by these courts.

The State Examiner issued Directive 2015-1 dealing with the collection of fines and fees for moving traffic violations. The Directive indicates that failure to properly treat moving traffic violations in accordance with IC 36-1-6-3(c), IC 34-28-5, and the instructions contained in the Directive will result in a civil action against those public officials who are responsible for improper enforcement.

A copy of State Examiner Directive 2015-1 is included at the end of this Bulletin. It may also be viewed on our website at [www.in.gov/sboa/files/SBOA\\_Directive\\_2015\\_1.pdf](http://www.in.gov/sboa/files/SBOA_Directive_2015_1.pdf)

## SEATBELT VIOLATIONS

A person who commits a seatbelt violation under IC 9-19-10-2 or IC 9-19-11-2 is guilty of a Class D Infraction. Under IC 34-28-5-4, courts may impose a judgment of up to twenty-five dollars (\$25) for each such infraction. Seatbelt violations are classified as moving traffic violations under IC 9-30-3-14 and must be adjudicated in a circuit, superior, county, city, or town court, or a traffic violations bureau designated by these courts.

Additionally, IC 34-28-5-5(c) mandates that all funds collected as judgments for infractions must be deposited into the state general fund. Furthermore, IC 36-1-3-8 stipulates that local government units do not have the authority to impose penalties through local ordinances for conduct classified as infractions.

## CRIMINAL HISTORY FEES

A local home rule ordinance would be required to enable a city or town law enforcement agency to collect fees noted in IC 10-13-3-30 (link: <https://iga.in.gov/laws/2024/ic/titles/10#10-13-3-30> ). All monies should be deposited in the municipality's general fund unless otherwise specified in the ordinance.

## CUMULATIVE CAPITAL IMPROVEMENT FUND – USES (Cigarette Tax Distributions)

Cumulative capital improvement fund uses are discussed in IC 6-7-1-31.1 (link: <https://iga.in.gov/laws/2024/ic/titles/6#6-7-1-31.1> ).

In addition, the Attorney General in Official Opinion No. 15, dated May 25, 1965, held a city or town existing at the time of the last preceding U.S. decennial census continues to share in the cigarette tax distribution on this basis and not on the basis of any subsequent U.S. Census Bureau special census.

Official Opinion No. 15 also states a city or town coming into existence after the last preceding U.S. decennial census is entitled to share in the cigarette tax distributions.

## INDEBTEDNESS

### General Obligation Indebtedness

A city or town can legally create interest-bearing indebtedness against the taxing power of such city or town under the following statutes:

\*1. Cities – Temporary Loans

IC 36-1-4-9 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-1-4-9>

IC 36-4-6-20 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-4-6-20>

General Obligation Indebtedness – (Continued)

\*2. Towns – Temporary Loans

IC 36-1-4-9 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-1-4-9>

IC 36-5-2-12 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-5-2-12>

3. Cities – Permanent Loans – In the Form of Bonds or Other Evidences of Indebtedness

IC 36-1-4-9 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-1-4-9>

IC 36-4-6-19 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-4-6-19>

IC 5-1-11 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-11>

IC 5-1-12 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-12>

IC 5-1-14 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-14>

IC 5-1-15 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-15>

IC 6-1.1-20 link: <https://iga.in.gov/laws/2024/ic/titles/6#6-1.1-20>

IC 36-9-41 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-9-41>

4. Towns – Permanent Loans – In the Form of Bonds or Other Evidences of Indebtedness

IC 36-1-4-9 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-1-4-9>

IC 36-5-2-11 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-5-2-11>

IC 5-1-11 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-11>

IC 5-1-12 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-12>

IC 5-1-14 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-14>

IC 5-1-15 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-15>

IC 6-1.1-20 link: <https://iga.in.gov/laws/2024/ic/titles/6#6-1.1-20>

IC 36-9-41 link: <https://iga.in.gov/laws/2024/ic/titles/36#36-9-41>

5. Cities and Towns – Funding and Refunding Indebtedness

IC 5-1-9-1 link: <https://iga.in.gov/laws/2024/ic/titles/5#5-1-9-1>

\*IC 36-1-8-4 also authorizes cities and towns to make temporary transfers to depleted funds (link: <https://iga.in.gov/laws/2024/ic/titles/36#36-1-8-4> ).

State statutes give the common council or town council authority to make loans and issue notes in anticipation of revenues of such city or town to be levied and collected during the term of the loans which cannot be more than five (5) years. Such loans are to be authorized by ordinance.

Permanent loans evidenced by bonds or other forms of indebtedness are authorized to be issued after a petition signed by owners of taxable real estate in such city or town has been filed with the common council or town council. Other requirements include an ordinance that the common council or town council has determined to issue the obligations petitioned for, a published notice to taxpayers of filing of said petition, a period of time after publishing such notice in which remonstrances may be filed, publication of notice of public sale of bonds or other evidence of indebtedness, appropriation of proceeds of the bond issue and approval of such appropriation by the Department of Local Government Finance in the regular legal manner.

Approval by the Department of Local Government Finance is required of all issues of obligation indebtedness if the interest rate is in excess of eight percent (8%) per annum. (IC 6-1.1-20-7 link: <https://iga.in.gov/laws/2024/ic/titles/6#6-1.1-20-7> )

### Time Warrants

IC 36-4-6-20(b)(2) and IC 36-5-2-12(a)(2) require loans to be evidenced by time warrants in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which the loans are issued and out of which the loans are payable. According to IC 6-1.1-20-7, if the rate of interest is greater than eight percent (8%), the approval of the Department of Local Government Finance must be secured.

A loan must be repaid from the fund to which the loan was receipted. The principal of a loan may be repaid without an appropriation, but an appropriation is required for payment of the interest on the temporary loan.

Suggested forms of "Notice of Receiving Bids for Temporary Loans" and "Tax Anticipation Time Warrant" which is similar to those now being used in some cities and towns follows. Please consult your city or town attorney for advice in this matter.

### NOTICE OF RECEIVING BIDS FOR LOANS

Notice is hereby given that the common council (or town council) of \_\_\_\_\_, in \_\_\_\_\_ County, Indiana, will receive sealed bids up to the hour of \_\_\_\_\_ (a.m. or p.m.) on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at the office of \_\_\_\_\_ street, \_\_\_\_\_, Indiana, for the following:

The proposal to loan the said city (or town) of \_\_\_\_\_, Indiana, \_\_\_\_\_ Dollars for the \_\_\_\_\_ Fund in anticipation of the revenues of the city (or town), and for a term not to exceed \_\_\_\_\_ days/years.

Each bid shall stipulate the rate of interest to be charged. Each bid shall be accompanied by an affidavit that no collusion exists between the bidder and any other person relative to such bid.

Prior to maturity all or any amount of the principal may be prepaid with accrued interest to the date of prepayment.

All bids must be made in full compliance with the law governing such matters; and, the common council (or town council) reserves the right to reject any or all bids.

ATTEST:

\_\_\_\_\_  
Clerk: (City (or Town) of \_\_\_\_\_)

BY: \_\_\_\_\_  
Mayor, City of \_\_\_\_\_  
(or President of Council, Town  
of \_\_\_\_\_)

Principal \$ \_\_\_\_\_  
Interest At \_\_\_\_\_ % \$ \_\_\_\_\_  
No. \_\_\_\_\_ Total \$ \_\_\_\_\_

CITY (OR TOWN) OF \_\_\_\_\_ TAX ANTICIPATION TIME WARRANT  
\_\_\_\_\_ FUND

On the \_\_\_\_ day of \_\_\_\_\_, the City (or Town) of \_\_\_\_\_, in \_\_\_\_\_ County, Indiana, promises to pay the bearer, at the office of the Treasurer of the City (or Town) of \_\_\_\_\_, the sum of \_\_\_\_\_ including interest on the principal amount of this warrant from the date hereof to maturity, payable out of and from taxes to be levied and collected in the year(s) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and payable in the year(s) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_. This warrant may be prepaid on and after \_\_\_\_\_, and prior to maturity at the principal amount hereof plus accrued interest to the date of prepayment.

This Tax Anticipation Time Warrant is one of a series of warrants aggregating a sum of \_\_\_\_\_, exclusive of interest added thereto to maturity, evidencing a temporary loan in anticipation of the taxes to be levied and collected for the \_\_\_\_\_ Fund of said City (or Town).

Said loan was authorized by an ordinance duly adopted by the Common Council (or Town Council) of the City (or Town) of \_\_\_\_\_, at a meeting thereof duly and legally convened and held on the \_\_\_\_\_ day of \_\_\_\_\_, for the purpose of providing funds for the \_\_\_\_\_ Fund of said City (or Town) of \_\_\_\_\_, in compliance with an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations," approved March 6, 1905, and all acts amendatory thereof and supplemental thereto, including particularly IC 36-4-6-20(b).

The consideration of said warrant is a loan made to the City (or Town) of \_\_\_\_\_ in anticipation of taxes to be levied and collected for the \_\_\_\_\_ Fund of said City (or Town) for the year(s) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, payable in the year(s) \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and said taxes to be levied and collected are hereby specifically appropriated and pledged to the payment of said Tax Anticipation Time Warrant.

It is hereby certified and recited that all acts, conditions, and things required to be done precedent to the authorization, preparation, complete execution and delivery of said warrants have been done and performed as provided by law.

IN WITNESS WHEREOF, the City (or Town) of \_\_\_\_\_ has caused this warrant to be signed in its corporate name by its Mayor (or Town Council President) and attest by the Clerk of the City (or Town) of \_\_\_\_\_ and the corporate seal of said City (or Town) hereunto affixed.

Dated this \_\_\_\_\_ day of \_\_\_\_\_.

ATTEST: CITY (OR TOWN) OF \_\_\_\_\_  
\_\_\_\_\_

Clerk: (City or Town) of \_\_\_\_\_ BY: \_\_\_\_\_  
Mayor, City of \_\_\_\_\_  
(or President of Council, Town  
of \_\_\_\_\_)

### TEMPORARY TRANSFERS TO DEPLETED FUNDS

Temporary transfers to depleted funds are discussed in IC 36-1-8-4 (link: <https://iga.in.gov/laws/2024/ic/titles/36#36-1-8-4> ).

Funds advanced shall be derived from taxes on property, special taxes, or any other revenue received from any operation of the municipal corporation.

Such temporary transfers should be affected by issuing a warrant and receipt for the amount of the transfer. The warrant should be endorsed and deposited in the depository account designated for the depleted fund. No appropriation is required either for the transfer or the repayment. Also, no interest should be charged on any such temporary transfer.

### GRANT ANTICIPATION NOTES

IC 5-19-1.5 (link: <https://iga.in.gov/laws/2024/ic/titles/5#5-19-1.5> ) authorizes municipalities to borrow funds for a period of not to exceed three years and may pledge for the payment of principal and interest therefore, the proceeds of a grant and any revenue which may be derived from the facility being constructed or improved by the proceeds of the note or notes.

The maximum amount of any loan shall not exceed eighty percent (80%) of the estimated amount of the grant in anticipation of which the loan is made.

Your city or town attorney should review the provisions of IC 5-19-1.5 for legal guidance of the municipality prior to utilizing this type of temporary loans.

### LOANS BETWEEN UTILITIES

IC 8-1.5-3-11(f) authorizes loans between two (2) municipally owned utilities as long as the ordinance establishing a cash reserve fund in utility loaning the money allows for such loans. The loan must be repaid within five (5) years at any rate and all repayments, including interest, must be returned to the utility's cash reserve fund (link: <https://iga.in.gov/laws/2024/ic/titles/8#8-1.5-3-11> ).

### LOANS FROM UTILITIES TO CITIES AND TOWNS

Loans from a municipality owned water, gas, or electric utility are governed by IC 8-1.5-3-11 (link: <https://iga.in.gov/laws/2024/ic/titles/8#8-1.5-3-11> ) and IC 8-1.5-3-12 (link: <https://iga.in.gov/laws/2024/ic/titles/8#8-1.5-3-12> ).

We recommend that when loans are made from a municipal wastewater (sewage) utility to a municipality, the aforementioned statutes be followed. However, since there are no statutory guidelines included in IC 36-9-23 for such loans, other loan provisions would be acceptable as set out in home rule ordinance adopted under IC 36-1-3 (link: <https://iga.in.gov/laws/2024/ic/titles/36#36-1-3> ).

### FINANCING CERTAIN PUBLIC WORKS PROJECTS AND ELIGIBLE EFFICIENCY PROJECTS

IC 36-9-41 (link: <https://iga.in.gov/laws/2024/ic/titles/36#36-9-41> ) allows cities and towns to borrow the money necessary to finance a public work project under two million dollars (\$2,000,000) or an eligible efficiency project under three million dollars (\$3,000,000) from a financial institution in Indiana by executing a negotiable note under IC 36-9-41-4. A city or town shall provide notice of its determination to issue the note under IC 5-3-1. Money borrowed is chargeable against the city or town's constitutional debt limitation.

A city or town borrowing money under IC 36-9-41-3 shall execute and deliver to the financial institution the negotiable note of the city or town for the sum borrowed. The note must bear interest, with both principal and interest payable in equal or approximately equal installments over a period not exceeding ten (10) years

The city or town shall appropriate an amount for and levy a tax each year sufficient to pay the obligation under the note according to its terms.

An obligation of a city or town under the note is a valid and binding obligation of the city or town notwithstanding any tax limitation, debt limitation, bonding limitation, borrowing limitation, or other statute to the contrary.

IC 36-9-41-6 through IC 36-9-41-8 set out the provisions for taxpayers to file a petition against the issuance of such note.

### PUBLICATION OF PENAL ORDINANCES

Except in case of an emergency requiring immediate implementation of an ordinance, a city and town ordinance providing penalty or forfeiture for a violation, which ordinance is not published in book or pamphlet form, as a part of a municipal code pursuant to IC 36-4-6-14(c) or IC 36-5-2-10(b), must be published in a newspaper as required by IC 5-3-1. To restate, if the ordinance is published in book or pamphlet form as a part of a municipal code, it need not be published in a newspaper.

### PRECIOUS METAL DEALER REGISTRATION FEES

Registration fees received for precious metal dealers should be deposited into the general fund. IC 24-4-19-13 (link: <https://iga.in.gov/laws/2024/ic/titles/24#24-4-19-13> ) governs requirements for precious metal dealers.

### CREDIT CARDS – PROCEDURES FOR PURCHASE

The State Board of Accounts will not take exception to the use of credit cards by a governmental unit provided the following criteria are observed:

1. The governing board must authorize credit card use through an ordinance or resolution, which has been approved in the minutes.
2. Issuance and use should be handled by an official or employee designated by the board.
3. The purposes for which the credit card may be used must be specifically stated in the ordinance or resolution.
4. When the purpose for which the credit card has been issued has been accomplished, the card should be returned to the custody of the responsible person.
5. The designated responsible official or employee should maintain an accounting system or log which would include the names of individuals requesting usage of the cards, their position, estimated amounts to be charged, fund and account numbers to be charged, date the card is issued and returned, etc.
6. Credit cards should not be used to bypass the accounting system. One reason that purchase orders are issued is to provide the fiscal officer with the means to encumber and

track appropriations to provide the governing board and other officials with timely and accurate accounting information and monitoring of the accounting system.

7. Payment should not be made on the basis of the statement or a credit card slip only. Procedures for payments should be no different than for any other claim. Supporting documents such as paid bills and receipts must be available. Additionally, any interest or penalty incurred due to the late filing or furnishing of documentation by an officer or employee should be the responsibility of that officer or employee.
8. If properly authorized, an annual fee may be paid.
9. If a vendor charges a convenience fee for use of the card, such fee may be paid to the vendor.

#### APPROPRIATION OF INSURANCE CLAIM PROCEEDS

Insurance proceeds should be receipted back into the fund which originally paid for the asset. These funds would not need to be appropriated if they are being spent within the year of receipt. However, if the repair to the asset exceeds the proceeds from insurance, then you would need to appropriate for the overage. IC 6-1.1-18-7 discusses this topic (link: <https://iga.in.gov/laws/2024/ic/titles/6#6-1.1-18-7> )

#### COMPUTING SALARIES FOR PARTIAL PAY PERIODS

A city or town employee on a monthly salary, whose employment with such city or town begins or terminates in the middle of a month, should be paid only for that part of such month that he has worked. If such employee's work was terminated at the end of the day on January 15, 2015, for example, we believe that he should receive 15/31 of his regular monthly salary for the month of January.

The same procedure should be used for a semimonthly, biweekly, and weekly salaries.

#### ASSIGNMENT OF WAGES – WAGE DEDUCTIONS

IC 22-2-6-1 provides any direction given by an employee to his employer to make a deduction from wages, shall constitute an assignment such wages subject to the provisions of the act. The term "employer" includes the State of Indiana and any political subdivision thereof. IC 22-2-6-2 outlines the procedures which must be followed and purposes for which deductible assignments may be made.

#### INTEREST ON DELINQUENT ACCOUNTS

Since existing statutes (and past court decisions) require that funds and appropriations must be available prior to entering into a contract, there is no reason why contractual payments should not be made in a timely fashion unless there is a dispute regarding the services rendered or materials delivered.

Please review your city or town's purchasing and subsequent claim payment procedures to ensure you are not going to be in a position where you may incur late payment charges.





## STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

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### STATE EXAMINER DIRECTIVE 2015-1

Effective Date: January 21, 2015

General Subject: Moving Traffic Violations

Authority: IC 5-11-1-10; IC 5-11-1-21; IC 35-44.2-1-7

Application: This Directive applies to all elected and appointed public officials of cities, towns, and counties.

All cities, towns, and counties collecting fines for moving traffic violations must refer such matters to the local prosecuting attorney or a city, town, or county court for infraction and ordinance violation enforcement proceedings as required by law. Specifically, Indiana Code § 36-1-6-3 states the following (emphasis added):

- (a) Certain ordinances may be enforced by a municipal corporation without proceeding in court through:
  - (1) an admission of violation before the violations clerk under IC 33-36; or
  - (2) administrative enforcement under section 9 of this chapter.
- (b) Except as provided in subsection (a), a proceeding to enforce an ordinance must be brought in accordance with IC 34-28-5, section 4 of this chapter, or both.
- (c) **An ordinance defining a moving traffic violation may not be enforced under IC 33-36 and must be enforced in accordance with IC 34-28-5.**

The accounts of each public official and public office should reflect the proper treatment of fines collected for moving traffic violations as required by Indiana Code § 36-1-6-3(c), Indiana Code Ch. 34-28-5, and this Directive. Failure to do so will result in a civil action against those public officials who are responsible for the improper enforcement and collection of fines for moving traffic violations as allowable by law.

This Directive may be amended from time to time and may be rescinded at any time in writing by the State Examiner or a Deputy State Examiner.

*Paul D. Joyce*  
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State Examiner