

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

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SPECIAL EDITION

NEW LAWS AFFECTING VARIOUS COUNTY OFFICES

The following is a digest of some of the laws passed in the 2008 Regular Session of the General Assembly affecting various offices in county government. Some of the laws do not pertain directly to a particular county office, but are included in this digest for ready reference to the covered subject matter.

The digest is not intended as an expression of legal interpretations, nor is the digest intended to be all inclusive. Reference in the digest will be to the Indiana Code in the following form (Amends IC 33-17-10-5) which means (Amends Indiana Code, Title 33, Article 17, Chapter 10, Section 5). Please note the effective date of each law.

PUBLIC LAW 1 – HOUSE ENROLLED ACT 1010 – EFFECTIVE UPON PASSAGE (11-10-2007) - 2007 Homestead Credit Rebate Checks

Amends PL 234-2007, Section 300. Instead of requiring county treasurers to apply homestead credit rebates calculated by the county auditor to delinquent property taxes prior to sending the rebate checks, the county legislative body may adopt an ordinance providing that the amount of the refund shall be applied first to any delinquent property taxes owed by the taxpayer. If the legislative body of the county does not adopt such an ordinance a search for delinquencies prior to issuance of the homestead credit rebate checks would not be required.

PUBLIC LAW 23 – HOUSE ENROLLED ACT 1016 – EFFECTIVE JULY 1, 2008 - Unclaimed Property

Amends IC 32-34-3-3. Property abandoned and claimed within 5 years after sent to the Attorney General will be sent to the claimant upon providing a certified copy of the court's order. The funds will no longer have to be sent from the State back to the clerk of the court for distribution.

PUBLIC LAW 27 - HOUSE ENROLLED ACT 1145 - EFFECTIVE JULY 1, 2008 - Disposal of Real Property Received from Tax Sale to Abutting Landowners

Adds IC 36-1-11-5.9. The county may sell or transfer real property acquired by tax default without consideration to an abutting landowner. The county shall send notice by certified mail to the abutting landowners. The county may negotiate the transfer or sale not earlier than 14 days from the date notice is sent.

PUBLIC LAW 39 - HOUSE ENROLLED ACT 1244 - EFFECTIVE JULY 1, 2008 – Congressional School Funds and Sewer Liens

Adds: IC 20-42-2-4.5, IC 20-42-2-7, and IC 20-42-2-8, regarding congressional school funds. The county council may by resolution elect to surrender custody of the congressional school funds. If the county council adopts the resolution, the county auditor prepares a report on the status of congressional school funds for the board of county commissioners. The board of county commissioners shall examine the report and if found correct the board shall order the county auditor to issue a warrant to the Treasurer of State for the amount of the fund. The report and the warrant is to be sent to the Auditor of State. Once transferred to the State, the State is responsible for semiannual payments of trust earnings to the school corporations.

Amends, IC 36-9-23-33 to require sewer liens certified to the county auditor for collection by the county treasurer to be due not later than the next installment of property taxes, instead of the next spring installment.

PUBLIC LAW 40 - HOUSE ENROLLED ACT 1108 - EFFECTIVE JANUARY 1, 2009 – Sheriff Compensation

Amends IC 6-8.1-8-3, IC 36-2-13-2.5, IC 36-2-13-2.8, and IC 36-2-13-17. For a sheriff elected or re-elected to office after November 1, 2010 the total amount of annual compensation from the county general fund, tax warrant collection fees retained and any other public sources may not exceed the amount compensation of a full-time prosecuting attorney in the county. Any other public sources does not include retirement or disability benefits from a federal, a state, or another state's local government retirement or disability program. The maximum compensation calculated would include the annual minimum salary that would be paid by the state to a full time prosecuting attorney in the county, as well as, any additional annual salary paid by the county.

PUBLIC LAW 70 - HOUSE ENROLLED ACT 1164 - EFFECTIVE JANUARY 1, 2009 - Model Residence Deduction from Property Taxes

Adds IC 6-1.1-12.6. For assessment dates beginning in 2009, an entity that owns a model residence may file for the deduction with the county auditor. A model residence is a single family residence that has never been occupied as a principal residence and is used for display or demonstration to prospective buyers or lessees. This does not include the land on which the residence sits. A property owner is entitled to a deduction under this chapter for an assessment date for not more than 3 model residences in Indiana.

PUBLIC LAW 97 - HOUSE ENROLLED ACT 1318 - EFFECTIVE JULY 1, 2005 – Law Enforcement Continuing Education Fee

Amends IC 33-37-5-8. Increased the law enforcement continuing education fee from \$3 to \$4.

PUBLIC LAW 100 - SENATE ENROLLED ACT 62 - EFFECTIVE JULY 1, 2008 - Foreclosure Sales

Amends IC 32-29-7-3. Requires the sheriff to post written notices of the sale of foreclosed property at the door of the courthouse of each county in which the real estate is located.

PUBLIC LAW 118 – SENATE ENROLLED ACT 208 - EFFECTIVE JULY 1, 2008 – Property Tax Installment Payments and Automatic Payments

Adds IC 6-1.1-22-9.7 and amends IC 6-1.1-22.5-6. After June 30, 2009, the county council may at any time adopt an ordinance to allow taxpayers to pay installments by a combination of automatic monthly deductions from a checking account and/or payments under a monthly payment plan. The ordinance must contain at least:

1. identification of the property tax installment or installment(s) for which the ordinance applies;
2. provisions for notice to county taxpayers of the option;
3. authority for the county treasurer to provide a form to taxpayers for automatic deductions from the taxpayer's account; and
4. authority for the county treasurer to accept payments under a monthly installment plan.

The county treasurer must provide the form required by the ordinance for automatic deductions from the taxpayer's bank account. The county treasurer must calculate the amount of the automatic deductions and the monthly installment plan. There is a statutory formula to use when the current tax liability is not known at the time of calculation. Adjustments to the calculation are allowable when the current tax liability is not known and another amount is determined to more accurately approximate the tax liability than the amount determined using the statutory formula. Penalties apply under IC 6-1.1-37-10. Automatic payments and monthly installment payment plan collections are distributed through the regular semi-annual settlements.

After June 30, 2009, the county treasurer shall give notice to the county council immediately upon determining to use provisional statements.

PUBLIC LAW 122 – SENATE ENROLLED ACT 329 – EFFECTIVE JULY 1, 2008 – Court Administration Fee Increased

Amends IC 33-37-5-27. The court administration fee is increased from \$3 to \$5.

PUBLIC LAW 129 - HOUSE ENROLLED ACT 1111 - EFFECTIVE JULY 1, 2008 – Recording Requirements

Amends IC 32-21-4-1 and 36-2-11-16. A mortgage still provides constructive notice of its contents as of the date of filing regardless of when it was recorded if the instrument does not comply with the acknowledgement, printed names and identical names requirements within IC 32-21-2 and IC 36-2-11-16. The recorder shall record a document that is a copy if the document is marked "copy" and meets other statutory recording requirements. The recorded copy shall have the same effect as if the original document had been recorded.

PUBLIC LAW 131 - HOUSE ENROLLED ACT 1125 - EFFECTIVE JANUARY 1, 2009 – Excise Tax on Recreational Vehicles and Camper Trucks

Adds IC 6-1.1-2-7 and IC 6-6-5.1. Recreational vehicles and camper trucks will no longer be considered non-business personal property. Beginning 2010 these vehicles will be subject to excise tax. Each county auditor is to certify to the Department of Local Government Finance the amount of excise tax collected under IC 6-6-5.1 and distributed to each taxing unit in 2010.

PUBLIC LAW 137 - HOUSE ENROLLED ACT 1204 - EFFECTIVE UPON PASSAGE (3-24-2008) – E-911

Adds IC 10-13-7; adds and amends various sections of IC 36-8-16 and IC 36-8-16.5. E-911 includes voice over internet protocol. The State Board of Accounts is required to audit the expenditures of emergency telephone system fees made during each year and report by November 1 to the regulatory flexibility committee.

PUBLIC LAW 144 – HOUSE ENROLLED ACT 1293 – EFFECTIVE JULY 1, 2008 – New Sales Disclosure Form that Includes Deduction Application Information

Amends IC 6-1.1-5.5. The Department of Local Government Finance (DLGF) prescribes a new version of the sales disclosure form. This new version is for conveyances of real property after June 30, 2008. The sales disclosure form is modified to enable property purchasers to apply for homestead credits and other property tax deductions without additional application forms.

PUBLIC LAW 146 - HOUSE ENROLLED ACT 1001

EFFECTIVE JULY 1, 2008 – Petitions for the Application of the Petition and Remonstrance Process or a Local Public Question

Amends and adds to IC 6-1.1-20. Changes the definition of controlled projects for which a petition process will apply. The petition and remonstrance process will be available to property owners and registered voters in the taxing district for controlled projects for:

1. School buildings that will be used for K through 8th grades that will not cost more than \$10,000,000;
2. School buildings for grades 9 through 12 that will not cost more than \$20,000,000; and
3. Other projects that will not cost more than the lesser of \$12,000,000 or 1% of the gross assessed value within the political subdivision that is at least \$1,000,000.

This process still requires property owners or registered voters to circulate 201K petition forms to apply for the full petition and remonstrance process. The forms are to be provided by the voter registration office.

A new referendum process is applicable for controlled projects that will exceed the thresholds listed above for the petition and remonstrance process. This referendum process also begins with petition forms circulated by property owners and registered voters within the political subdivision. The forms used are the 202 series forms prescribed by the State Board of Accounts and can be obtained from the voter registration office. If sufficient signatures are obtained on the petition, a local public question must be certified to the election board for inclusion on the ballot for the next election before the political subdivision may proceed with the project. Sample 202 series forms may be reviewed on the website at www.in.gov/sboa. Details regarding required notices, signature verification, and certification of the results are in IC 6-1.1-20-3.5. Detailed information on the local public question are included in IC 6-1.1-20-3.6.

EFFECTIVE UPON PASSAGE (4-4-2008) – County Board of Tax and Capital Projects Review

Amends IC 6-1.1-29. The county will not establish a county board of tax and capital projects review. If the county has a board of tax adjustment it will not be abolished.

EFFECTIVE JULY 1, 2008 – Quarterly Reports on Local Option Income Taxes

Adds IC 6-1.1-30-17 and amends IC 6-3.5-1.1-9, IC 6-3.5-6-17, and IC 6-3.5-7-11. Beginning after December 31, 2010 the Office of Management and Budget will develop a quarterly report on local option income taxes in each county that will be made available to county auditors. The State Budget Agency will also provide annual summary calculation reports to county councils regarding county adjusted gross income tax, county option income tax, and county economic development income tax.

EFFECTIVE UPON PASSAGE (4-4-2008) – Division of Family Resources

Adds IC 12-7-2-124.8. The division of family and children and its county offices names are changed to be local offices of the division of family resources.

EFFECTIVE JANUARY 1, 2009 – State Funding of Property Tax Levies

Amends IC 12-19-1-21. After December 31, 2008, a county will no longer impose property tax levies for the following:

1. county medical assistance to wards fund
2. family and children's services fund
3. children's psychiatric residential treatment services fund
4. children with special health care needs fund.

EFFECTIVE JULY 1, 2008 – School Referendum Tax Levy

Amends IC 20-46-1. A school corporation may adopt a resolution to place a referendum on the ballot if:

1. the governing body determines the school corporation cannot carry out its public educational duty unless it imposes a referendum tax levy; or
2. the governing body determines that referendum tax levy should be imposed to replace property tax revenue lost to the school because of the circuit breaker credit.

If the school corporation adopts the resolution the county fiscal body must certify the question to be voted on to the election board.

EFFECTIVE JULY 1, 2008 – Property Tax Assessing Changes

Amends and adds various chapters in IC 36-2 regarding assessing duties. Certain township assessing duties will be transferred to the county assessor. Adds a public referendum to determine who will be responsible for carrying out assessing duties in certain townships.

EFFECTIVE JULY 1, 2008 – Changes in Tax Increment Financing

Amends IC 36-7-14. The fiscal body of the unit that established the redevelopment commission must approve certain planning and financing activities of the redevelopment commission. Before July 15th each year, the redevelopment commission shall provide written notice to the county auditor and other taxing units in the allocation area stating the amount, if any, of excess assessed value that the commission has determined may be allocated to the respective taxing units.

EFFECTIVE JANUARY 1, 2008 (Retroactive) – 2007 Homestead Credit Rebates

Amends, PL 234-2007, Section 300. A warrant issued by a county auditor for a 2007 homestead credit rebate that remains outstanding for 180 days from the date of issuance and is for an amount that is not more than \$10 is void. The dollar amount of warrants void under this section is to be paid to the Treasurer of State not more than 90 days after the warrant is void.

EFFECTIVE UPON PASSAGE (4-4-2008) – County Option Income Tax and County Adjusted Gross Income Tax Adoption and Rate Increases

Non-code, Section 867. Counties may adopt or increase county option income tax (COIT) and county adjusted gross income tax (CAGIT) any time in 2008. Income taxes take effect as follows:

1. an ordinance adopted before October 1, 2008, the tax rate takes effect October 1, 2008;
2. an ordinance adopted after September 30, 2008 and before October 16, 2008, takes effect November 1, 2008;
3. an ordinance adopted after October 15, 2008 and before November 16, 2008, takes effect December 1, 2008;
4. an ordinance adopted after November 15, 2008 and before January 1, 2009, takes effect January 1, 2009.