

THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 367

April 2009

REMINDER OF ORDER OF BUSINESS

April

- 10 Good - Friday - Legal Holiday (IC 1-1-9-1)
- 14, 15, & 16 State Board of Accounts called meeting for County Recorders - Indianapolis
- 15 Members of Tax Adjustment Board to be appointed before this date in counties that have not abolished such board. (IC 6-1.1-29-2)
- Last day to make pension report and payment for first quarter by counties participating in Public Employees' Retirement Fund.
- 20 Last day to report and make payment of balance of State and County Income Tax withheld in March to Indiana Department of Revenue.
- Last day to file quarterly unemployment compensation reports with the Department of Workforce Development.
- 30 Prepare inventory of Loans to Common, Congressional, Permanent Endowment and Cemetery Trust Funds.
- 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, 2009, as shown in this report. (IC 20-42-1-6)
- 10 First installment of property taxes due.
- 15 On or before May 15 is the last regular day for filing applications for tax exemption by Churches, Educational and Charitable organizations. (IC 6-1.1-11-3)
- Period for normal filing of personal property schedules ends. (IC 6-1.1-1-7)
- Before May 16, 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 preceding year. (IC 6-1.1-11-5)

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REMINDER OF ORDER OF BUSINESS
(Continued)

May – (continued)

- 20 Last day to report and make payment of State and County Income Tax withheld in April to Indiana Department of Revenue.
- 20, 21, & 22 State Board of Accounts called meeting for County Auditors – French Lick
- 25 Memorial Day – Legal Holiday (IC 1-1-9-1)

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 June 1 the County Auditor will certify the name and addresses of persons who have money due them from the County to the County Treasurer for determining if such persons owe delinquent property taxes. (IC 6-1.1-22-14)

On or before June 1 the County Treasurer will provide to the Auditor of State, Indiana Department of Transportation, and any state institution or state school a list of persons who owe delinquent property taxes and are believed to have money due to them from that agency. (IC 6-1.1-22-16)
- 9, 10, & 11 State Board of Accounts called meeting for Clerk of the Circuit Courts – Indianapolis
- 15 Before June 16 of each even numbered year the County Assessor is to give notice to tax exempt organizations which failed to file an application for exemption of property tax for which an exemption was effective for the previous year, if application must be filed for the exemption under IC 6-1.1-11-3.5. (IC 6-1.1-11-5)
- 20 Last day to report and make payment of State and County Income tax withheld in May to Indiana Department of Revenue.

On or before this date complete settlement and distribution of taxes collected by the County Treasurer since the last settlement. Prepare settlement sheet to be submitted to Auditor of State for approval and make distribution of funds due local governmental units and the Treasurer of State by June 30. (IC 6-1.1-27-3)
- 30 County Treasurer to certify list of real property eligible for tax sale to County Auditor on or before July 1. (6-1.1-24-1)

COMPENSATION OF SPECIAL PROSECUTING ATTORNEYS

IC 33-14-1-6 deals with the appointment and compensation of special prosecuting attorneys. In regard to compensation, this statute states:

“(g) If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor’s services:

- (1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and
- (2) may not exceed:

- (A) an hourly rate based upon the regular salary of a full-time prosecuting attorney of the appointing circuit;

- (B) travel expenses and reasonable accommodation expenses actually incurred; and

- (C) other reasonable expenses actually incurred, including the costs of investigation, discovery, and secretarial work, if:

- (i) before incurring the other reasonable expenses described in this clause, the special prosecutor submits an application to the court to receive the other reasonable expenses; and

- (ii) the court approves the expenses.

The amount of compensation a special prosecutor receives for services performed during a calendar day under subdivision (2)(A) may not exceed the amount of compensation a full-time prosecuting attorney would receive in salary for the calendar day.

(h) If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor’s services:

- (1) shall be paid out of the appointing county’s unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and

- (2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually incurred.

- (i) The combination of:

- (1) the compensation paid to a senior prosecuting attorney under this chapter; and

- (2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;

may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under IC 33-39-6-5.”

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

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DEPUTY PROSECUTING ATTORNEYS (Continued)

percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(5) The state may not pay any amount of the annual salary of a chief deputy prosecuting attorney appointed under this section by the prosecuting attorney of the ninety-first judicial circuit.

(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 annual salary of a deputy prosecuting attorney appointed under subsections (b) through (d) 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.

(f) 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."

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.

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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.

FINDERS FEES BY COLLECTION AGENTS

Many counties have been recently contacted by collection agents claiming they know where the county has money coming to them and that they would help the county collect this for a finders fee.

These collection agents claim to know some uncovered secrets and they are the only ones who know this information. However, in fact, they are getting their information from public records available to anyone. Your "lost" money is probably either a warrant issued by the Auditor of State that has been lost or unclaimed property with the Attorney General. Instead of signing a contract with these agents and paying an unnecessary finder fee you should contact the Auditor of State and Attorney General to find your money.

There is also the possibility that if you contract with a collection agent and pay the finders fee that during our audit this could be considered a personal charge against the fiscal officer of the county.

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

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EXCESS TAX COLLECTED – SURPLUS TAX FUND – UNCLAIMED FUNDS (Continued)

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.

BUTTETIN 365

There is no Bulletin issued with Volume number 365

OFFICE INQUIRES

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 Bruce Hartman, 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, 2009. 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, 2009 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	\$1.89
In counties having a population of 20,001 to 40,000.	\$1.83
In counties having a population of 40,001 to 60,000.	\$1.75
In counties having a population of 60,001 to 80,000.	\$1.55
In counties having a population of 80,001 to 100,000.	\$1.31
In counties having a population of 100,001 to 200,000.	\$1.19
In counties having a population of 200,001 or over.	\$1.12

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

- Allen
- Lake
- Marion
- Vanderburgh

Bruce Hartman, CPA
State Examiner

Dated this 5th day of March, 2009
DG/db