

# THE COUNTY BULLETIN

And Uniform Compliance Guidelines

ISSUED BY STATE BOARD OF ACCOUNTS

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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 2011 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 – SENATE ENROLLED ACT 32 – EFFECTIVE DECEMBER 31, 2010**

**(Retroactive) Vote Centers** – Adds IC 3-5-2-49.8, IC 3-11-8-10.3 and IC 3-11-18.1 – Allows the use of vote centers in all counties.

#### **PUBLIC LAW 2 – HOUSE ENROLLED ACT 1450 – EFFECTIVE JULY 1, 2011**

**Unemployment Insurance** – Adds IC 22-4-3-3 and IC 22-4-10-4.5 – Amends several sections of IC 22-4-11 and IC 22-4-12 – Makes several changes to eligibility requirements.

#### **PUBLIC LAW 12 - SENATE ENROLLED ACT 86 – EFFECTIVE MARCH 1 AND JULY 1, 2011**

**Extended Unemployment Benefits** – Amends and adds to IC 22-4 – Provides that an individual is considered to have refused an offer for suitable work if he/she tests positive for drugs or refuses without good cause to submit to a drug test required by a prospective employer as a condition of an offer for employment.

#### **PUBLIC LAW 17 - SENATE ENROLLED ACT 411 – EFFECTIVE JULY 1, 2011**

**Disclosure of Firearm Information** – Adds IC 34-28-8 - Amends IC 10-14-3-33.5 – Provides that a civil action may be brought against a public employer who requires disclosure of possession of a firearm or ammunition by an applicant for employment. Provides civil penalties for violations.

#### **PUBLIC LAW 18 – SENATE ENROLLED ACT 418 – EFFECTIVE JULY 1, 2011**

**Common Construction Wage** - Amends IC 5-16-7-1, IC 5-16-7-4 and IC 5-30-8-6 – Removes the requirement that the wage committee meet to set wages for each project. Requires the committee to set wage rates for all wage classifications at least once every three (3) months. States that if an awarding agency advertises for a contract that includes classifications that are not listed on the existing wage scale, the awarding agency shall form a new committee to determine the classifications and wages on the contract.

#### **PUBLIC LAW 22 - SENATE ENROLLED ACT 524 – EFFECTIVE JULY 1, 2011**

**Public Employee's Defined Contribution Plan** – Adds IC 5-10.3-12 - Amends IC 5-10.2-2-6 – Establishes a public employees' defined contribution retirement plan for state employees. Urges the legislative council to assign to the pension management oversight commission the study of whether to create a defined contribution plan as an option for new employees of counties.

**PUBLIC LAW 36 – SENATE ENROLLED ACT 169 – EFFECTIVE APRIL 20, 2011 –**

**Death Deed** – IC 32-17-14-11(i) added so that the endorsement by auditor is not necessary for the transfer on death deed.

**PUBLIC LAW 42 - SENATE ENROLLED ACT 295 – EFFECTIVE APRIL 20, 2011**

**Technical Corrections** – Makes technical corrections to several sections of the Indiana Code.

**PUBLIC LAW 53 – HOUSE ENROLLED ACT 1275 – EFFECTIVE JULY 1, 2011**

**Transfers of Funds – CEDIT Funds** - Adds IC 6-3.5-7-12.7 – Allows a county to permanently transfer, by ordinance or resolution, money in its CEDIT fund to the general fund or any other appropriated county fund.

**Transfers of Funds – Rainy Day Fund** – Amends IC 36-1-8-5.1 – Allows a county to permanently transfer, by ordinance or resolution money in its Rainy Day fund to any other appropriated county fund.

**PUBLIC LAW 58 – SENATE ENROLLED ACT 26 – EFFECTIVE JULY 1, 2011**

**Local Government Reorganization/Merger** – Adds IC 36-1-7-16 and IC 36-1-8-17 - Amends IC 36-1.5-3-5 and IC 36-6-1.5-12 – Requires the DLGF to develop criteria for making an adjustment to allow a political subdivision to retain a part of its levy and budget that would have been otherwise reduced because of savings from a reorganization, merger, or combination with another political subdivision.

**PUBLIC LAW 61 – SENATE ENROLLED ACT 123 EFFECTIVE APRIL 26, 2011 –**

**Tax Bill Delivery-** The county treasurer may send via nationally recognized express parcel carrier any documents under these chapters that may be sent by U.S. Mail.

**PUBLIC LAW 77 – SENATE ENROLLED ACT 62 – EFFECTIVE APRIL 28, 2011**

**Local Option Income Taxes** – ADOPTION DATES – Amends IC 6-3.5-1.1 CAGIT, IC 6-3.5-6 COIT, and IC 6-3.5-7 CEDIT – This conforms references to ordinance adoption dates in the local income tax laws to the dates specified in 2010.

**PUBLIC LAW 102 – SENATE ENROLLED ACT 217 – EFFECTIVE JULY 1, 2011**

**Official Misconduct** – Amends IC 35-44-1-2 – Now reads that a public servant commits official misconduct a class D felony if the public servant knowingly or intentionally commits an offense in the performance of the public servant's official duties.

**PUBLIC LAW 107 - SENATE ENROLLED ACT 464 – EFFECTIVE JULY 1, 2011**

**Depository Rule** – Adds IC 5-13-4-21.3 – Amends IC 5-13-4-3 and IC 5-13-4-4- - Defines a public servant. States that a public servant who knowingly or intentionally: (1) fails to deposit public funds; or (2) deposits or draws any check or negotiable order of withdrawal against the funds; except in the manner prescribed in IC 5-13, commits a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750), and a Class C felony if the amount involved is at least fifty thousand dollars (\$50,000). The public servant also is liable upon the public servant's official bond for any loss or damage that may accrue. Provides that a public servant who knowingly or intentionally fails to perform any duty imposed upon the public servant by IC 5-13, other than a duty for which a penalty is imposed by IC 5-13-14-3, commits a Class B misdemeanor.

**PUBLIC LAW 110 - SENATE ENROLLED ACT 559 – EFFECTIVE JULY 1, 2011**

**Conflict of Interest** – Amends IC 35-44-1-3 and IC 35-44-1-7 – Sets out definitions and defenses that apply to the conflict of interest law.

**PUBLIC LAW 117 – HOUSE ENROLLED ACT 1025 – EFFECTIVE JULY 1, 2011**

**Official Bonds** – Amends IC 5-4-1-18 – Removes the annual coverage requirements for officials bonds.

**Crime Insurance Policies** - Adds IC 5-4-1-18(k) – States that: (1) unless the bond or policy is cancelled, the bond or policy must continue in force for the term of office of the individual who files the bond or policy, and (2) the aggregate liability of the surety or insurer is the amount specified in the bond or policy.

**Internal Control Standards and Procedures** – Adds IC 5-11-1-27 – States that in the compliance guidelines authorized under IC 5-11-1-24, the state board of accounts shall define the acceptable minimum level of: (1) internal control standards; and (2) internal control procedures; for internal control systems of local governments.

The internal control standards and procedures shall be developed to promote government accountability and transparency.

All erroneous or irregular variances, losses, shortages, or thefts of local government funds or property shall be reported immediately to the state board of accounts.

The State Board of Accounts Shall: 1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials; 2) determine the internal control weakness that contributed to or caused the condition; and 3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing: A) the method of correcting the condition; and B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition

The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the State Board of Accounts under IC 5-11-1-27(c)(3)(B).

**PUBLIC LAW 126 – HOUSE ENROLLED ACT 1311 – EFFECTIVE JULY 1, 2011**

**Planning and Zoning** - Amends several sections of the planning and zoning laws in IC 36-7 – Changes laws concerning vacation requests, waivers and appointment of board members.

**PUBLIC LAW 137 – SENATE ENROLLED ACT 34 – EFFECTIVE JULY 1, 2011**

**Interstate Compact for Adult or Juvenile Supervision** – IC 11-13-4.5-4 increases the application fee from \$75 to \$125 for transfer out of state. The 50% of the fee retained by the county no longer goes into the supplemental adult probation services fund but into the new offender transportation fund created under IC 11-13-4.5-8. The fiscal body appropriates as requested by the probation department. The fund is non reverting.

**PUBLIC LAW 139 – SENATE ENROLLED ACT 60 – EFFECTIVE JULY 1, 2011 AND JANUARY 1, 2012**

**Board of Aviation Commissioners – Airport Authorities – Open Door Law** - Amends IC 5-14-1.5-6.1 – States that a board of aviation commissioners and an airport authority board may hold one executive session per year to train with an outside consultant about the performance of the role of the members as public officials.

**Board of Aviation Commissioners – Airport Authorities – Public Works Projects – Aviation Services** – Amends IC 8-22-2-6, IC 8-22-3-12, and IC 8-22-3-11 – States that the statutes governing public works projects apply to the boards of aviation commissioners and airport authority boards. Allows airport authorities to provide aviation services to public use airports within or outside Indiana either directly or through an affiliate entity established by the board.

**PUBLIC LAW 139 – SENATE ENROLLED ACT 60 – EFFECTIVE JULY 1, 2011 AND JANUARY 1, 2012 (Continued)**

**Public Works Projects** – Amends IC 36-1-12-4 – Allows bids to be opened after the time designated if: (1) the city or town makes a written determination that it is in the best interest of the county to delay the opening; and (2) the day, time, and place of the rescheduled opening are announced at the originally scheduled opening.

**PUBLIC LAW 147 - SENATE ENROLLED ACT 205 – EFFECTIVE MAY 10, 2011**

**Public Depositories – Services Charges** – Amends IC 5-13-9-8 and IC 5-13-11-3 – Provides that bank service charges may be paid: (1) by direct charge to the deposit or other account; or (2) in a manner that subtracts the service charge from interest earned on the funds in the deposit or other account. States that such requirement applies to investment cash management system accounts.

**PUBLIC LAW 152 – SENATE ENROLLED ACT 292 – EFFECTIVE JULY 1, 2011**

**Local Firearm Regulation** – Adds IC 35-47-1-2.5, IC 35-47-1-5.1 and IC 35-47-11.1, Amends IC 14-22-31.5-5 – Repeals IC 35-47-11 – Prohibits, with certain exceptions, counties from regulating ownership, sales, and transfers of firearms, ammunition, and firearm accessories. Permits a person who is adversely affected by an ordinance, rule, or policy of a county that violates the law to recover damages, court costs, and reasonable attorney fees from the county.

**PUBLIC LAW 157 – SENATE ENROLLED ACT 381 – EFFECTIVE JULY 1, 2011**

**Representation by Taxing Official** – IC 6-1.1-15-17..3 added. Defines tax official as township assessor, county assessor, county auditor, county treasurer, a member of a county board, or any employee, contract employee, or independent contractor of any of these individuals described. A tax official may not represent a taxpayer with respect to property subject to property taxes in the county before the county board of that county or the Indiana Board unless they are representing themselves. Lists exceptions for contractors.

**PUBLIC LAW 162 – SENATE ENROLLED ACT 464 – EFFECTIVE JULY 1, 2011**

**Child Support Incentive Funds** – Amends IC 31-25-4-23 and adds IC 31-25-4-23.5 – A portion of child support incentive money no longer goes into the general fund, now that portion goes into a newly created Title IV-D incentive fund to be spent for child support purposes and is non reverting.

**PUBLIC LAW 166 - SENATE ENROLLED ACT 533 – EFFECTIVE JULY 1, 2011**

**Design – Build Public Works Projects** - Adds IC 5-30-6-5.5 – Amends IC 5-30-1-11, IC 5-30-1-12, IC 5-30-2-1, IC 5-30-4-3, IC 5-30-4-4, IC 5-30-5-1, IC 5-30-6-1, IC 5-30-7-1, and IC 5-30-7-3 – Repeals IC 5-30-2-2 – Requires a county that is proposing a public works project for which a referendum is to be held to wait until after the referendum is completed to issue a request for proposals. States that technical review committee meetings for a project comprised entirely of county employees undertaking the project are not open to the public. Requires a technical review committee to give a written comprehensive score for each proposal. Adds sewer and drainage projects to the list of projects that can be constructed under the design-build law.

**PUBLIC LAW 168 - SENATE ENROLLED ACT 576 – EFFECTIVE JULY 1, 2011**

**Workers Compensation** – Adds and makes several amendments to IC 22-3 – Makes several changes to the worker's compensation laws. Increases civil penalties for failure to post notices, file certain records, and failure to provide proof of coverage. Increases criminal penalties for an employer's failure to insure or provide adequate security for the employer's worker's compensation and occupational disease liabilities.

**PUBLIC LAW 170 – SENATE ENROLLED ACT 582 – EFFECTIVE MAY 10, 2011**

**Mortgage Foreclosure Action** - Applies to mortgage foreclosure action filed after June 30, 2011. During pendency, regardless of any stay, if the debtor continues to occupy the dwelling, the court may issue a provisional order that requires the debtor to make monthly payments. The court will direct that the payments are either made to the clerk of the court or an attorney trust account.

**PUBLIC LAW 171 - SENATE ENROLLED ACT 590 – EFFECTIVE JULY 1, 2011**

**Immigration Matters** – Adds IC 12-32, IC 22-4-39.5, IC 22-5-1.7, IC 22-5-6, IC 34-28-8.2 and IC 35-33-8-4.5 – Makes numerous changes to the laws governing immigration. Counties providing public benefits as defined in statute must require the person receiving benefits to sign a verification statement that eligible under the immigration statute. The verification statement has been provided by State Board of Accounts. This statement must be maintained for at least 5 years. This Act also requires employers to use the Federal E-Verify Program to verify the work eligibility status of employees hired after June 30, 2011. Requires employees hired with no employment agreement, where the term of employment is to be more than three (3) days, to sign a form, under penalty of perjury, that states they are legally authorized to work. Requires subcontractors to certify they are using the E-Verify Program. Requires contracts entered into after June 30, 2011, to contain provisions that the contractor has verified the eligibility of its newly hired workers and requires such contractors to sign an affidavit stating they have not hired unauthorized aliens. Sets out similar requirements on grants awarded by counties over \$1,000.

**PUBLIC LAW 172 – HOUSE ENROLLED ACT 1004 – EFFECTIVE VARIOUS DATES**

**Budget Approval** – DLGF – Amends IC 5-11-1-4 and IC 5-11-13-1 – States that the Department of Local Government Finance (DLGF) may not approve the budget of a city or town or a supplemental appropriation for a city or town until the county files a CAR and Form 100-R for the preceding calendar year.

**Public Works Projects – Bid Thresholds** – Amends IC 36-1-12-4 and IC 36-1-12-4.7 – Raises the bid threshold for public works projects to \$150,000. For projects of \$50,000 to \$150,000, a county must obtain at least three (3) quotes by mail.

**Public Works Projects – Use of Own Workforce** – Amends IC 5-11-1-26 and IC 36-1-12-3 – Raises the amount of a project which may be constructed by means of a county's own workforce to \$150,000. States that if a county performs a public work by means of its own workforce under IC 36-1-12-3, The state board of accounts shall include the following in each examination report concerning the city or town: (1) opinion concerning compliance with IC 36-1-12-3, (2) a brief description of the project including a calculation of actual cost of the public work, and (3) an opinion concerning whether the county has complied with IC 36-1-12-19 in calculating the actual costs of the project. For projects where a county uses its own work force which are greater than \$100,000 but less than \$150,000, a public hearing is required.

**Local Indiana Business Price Preference** – Adds IC 5-22-15-20.9 – Provides for a price preference to local Indiana businesses.

**LOIT – Public Safety** – Amends IC 6-3.5-1.1-25 – Allows a fire department, volunteer fire department, or emergency medical service provider to apply for a distribution of LOIT - Public Safety money from the County. States that a city or town may not receive a LOIT – Public Safety distribution if it does not provide public safety services.

- Amends IC 6-8.1-8-2 Effective upon passage
- Tax Warrants

(h) If the department determines that the filing of a tax warrant was in error, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. **The circuit court clerk of each county where the warrant was filed shall expunge the warrant from the judgment debtor's column of the judgment record.** The department shall mail the release **and the order for the warrant to be expunged** as soon as possible ...

**Tax Warrants** – Amends IC 6-8.1-8-2(h) If the department determines that the filing of a tax warrant was in error, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. **The circuit court clerk of each county where the warrant was filed shall expunge the warrant from the judgment debtor's column of the judgment record.** The department shall mail the release **and the order for the warrant to be expunged** as soon as possible ...

**Nonprofit Corporations – Limited Audits** – Amends IC 5-11-1-9 – Raises the amount of public funds a nonprofit corporation may spend and be subject to a limited audit from \$100,000 to \$200,000.

**PUBLIC LAW 173 - HOUSE ENROLLED ACT 1007 – EFFECTIVE JULY 1, 2011-**

**Hiring Incentives** - Adds IC 6-3.5-9 - Creates a local option hiring incentive to be paid from local option income taxes.

**PSAP**- IC 36-8-16.5-51- Provides that a PSAP operated by an excluded city in Marion County does not count against the limit on the number of PSAP's in the county as set out in IC 36-8-16.5-51.

**PUBLIC LAW 187 – HOUSE ENROLLED ACT 1153 – EFFECTIVE JULY 1, 2011 –**

**Problem Solving Court** – Adds chapters under IC 33-23 that identify responsibility of paying problem solving court fees and how the records are to be maintained. Amends IC 33-37-8-5 to include the problem solving court fee under the user fee fund.

**PUBLIC LAW 188 – HOUSE ENROLLED ACT 1174 – EFFECTIVE JULY 1, 2011**

**Sale of Real Estate – Appraisals – Hiring a Broker** – Amends IC 36-1-11-4, IC 36-1-11-4.2 and IC 36-1-11-5 – Adds IC 36-1-11-4.3 – Removes the requirement that two (2) appraisers appointed to appraise the property make a joint appraisal. States that a disposing agent may sell property for less than ninety percent (90%) of the average of the two (2) appraisals of the tracts only after an additional notice stating the amount of the bid to be accepted is published in accordance with IC 5-3-1. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected. If the disposing agent determines that, in the exercise of good business judgment, the disposing agent should hire a broker or auctioneer to sell the property, the disposing agent may do so and pay the broker or auctioneer a reasonable compensation out of the gross proceeds of the sale. A disposing agent may hire a broker to sell real property directly rather than using the bid process under IC 36-1-11-4 (c) through (f) if: (1) the disposing agent publishes a notice of the determination to hire the broker in accordance with IC 5-3-1; and (2) the property has been up for bid for at least sixty (60) days before the broker is hired, and either no bids were received or the disposing agent has rejected all bids that were received. The disposing agent may hire one (1) of the appraisers as the broker or auctioneer.

The following apply if a broker is hired: (1) The property may not be sold to a person who is ineligible under IC 36-1-11-16. (2) If the property is sold to a trust (as defined in IC 30-4-1-1(a)), the following information must be placed in the public record relating to the sale: (A) Each beneficiary of the trust. (B) Each settlor empowered to revoke or modify the trust.

**Sale of Real Estate For Purposes of Economic Development or Compatible Land use Planning** - Amends IC 36-1-11-4.2 – The disposing agent may: (1) negotiate a sale or transfer; and (2) dispose of the real property; at a value that is not less than the average of the two (2) appraisals under IC 36-1-11-4.2(b).

The disposing agent may dispose of the real property for a value that is not less than the average of the two (2) appraisals only after publishing a notice in accordance with IC 5-3-1 stating the amount of the offer to be accepted. The disposing agent may reject all offers. If the disposing agent rejects all offers, the disposing agent must make a written determination to reject all offers explaining why all offers were rejected.

**Sale or Transfer of Real Estate – Public Easement or Right of Way Property** - Adds IC 36-1-11-4.3 – States that a sale or transfer of property constituting a public easement or right of way does not deprive a public utility of the use of all or part of the public easement or right of way that is sold or transferred if, at the time of the sale or transfer, the public utility is occupying and using all or part of that public easement or right of way for the location and operation of its facilities.

**Sale To Abutting Landowner** – Amends IC 36-1-11-5 – States that the procedures to sell property to an abutting landowner also apply to property that has not been assessed and was previously part of a public right-of-way.

**PUBLIC LAW 188 – HOUSE ENROLLED ACT 1174 – EFFECTIVE JULY 1, 2011 (Continued)**

**Lease of Property – Appraisals** - Amends IC 36-1-11-10 – States that the disposing agent shall receive bids in the manner prescribed in IC 36-1-11-4 and lease the property to the highest and best bidder. The disposing agent may reject all bids. If the disposing agent rejects all bids, the disposing agency must make a written determination to reject all bids explaining why all bids were rejected.

The disposing agent may lease the real property for a value that is less than ninety percent (90%) of the appraised fair market rental value as determined by the average of the two (2) appraisals under IC 36-1-11-4(b) only after publishing an additional notice in accordance with IC 5-3-1, stating the amount of the bid to be accepted. If the disposing agent rejects all bids, the disposing agent must make a written determination to reject all bids explaining why all bids were rejected.

**PUBLIC LAW 195 – HOUSE ENROLLED ACT 1216 – EFFECTIVE JULY 1, 2011**

**Common Construction Wage** – Adds IC 5-16-7-6 - Amends IC 5-16-7-1 and IC 5-16-7-4 – Raises the thresholds for public works projects being subject to common construction wage rates from \$150,000 to \$250,000 effective January 1, 2012 and from \$250,000 to \$350,000 effective January 1, 2013.

**PUBLIC LAW 198 – HOUSE ENROLLED ACT 1238 – EFFECTIVE MAY 10 AND JULY 1, 2011 – Petition and Remonstrance** – Amends IC 6-1.1-20-3.1 and IC 6-1.1-20-3.6 – States that a county may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of the petition and remonstrance process. Requires the DLGF to approve the ballot language for a capital project referendum.

**PUBLIC LAW 202 – HOUSE ENROLLED ACT 1297 – EFFECTIVE MAY 10, 2011**

**Public Depositories** – See Public Law 147 for similar provisions.

**PUBLIC LAW 203 – HOUSE ENROLLED ACT 1313 – EFFECTIVE VARIOUS DATES TAX**

**Increment Financing (TIF)** – Amends several sections of IC 36-7-14 and IC 36-7-15.1 – Provides that tax increment revenues for a TIF area do not include property taxes that are imposed after being approved by the voters in a referendum or local public question.

**PUBLIC LAW 205 – HOUSE ENROLLED ACT 1329 – EFFECTIVE JUNE 29, 2011**

**Health Care for Detainees** – Amends IC 11-12-5-5.5- Allows a county to reimburse a health care provider as describe in this chapter at a lower rate than prescribed by this chapter if there is an agreement.

**PUBLIC LAW 211 – HOUSE ENROLLED ACT 1538 – EFFECTIVE JULY 1, 2011**

**Minimum Wage Requirements** - Adds IC 22-2-2-10.5 – Prohibits a county from establishing, mandating or otherwise requiring a minimum wage that exceeds the Federal minimum wage rate.

**PUBLIC LAW 212 – HOUSE ENROLLED ACT 1543 – EFFECTIVE MAY 10, 2011**

**Residential Lease Regulation** - Adds IC 36-1-20 - States that the owner of a rental unit assessed any inspection, registration, or other fee by a political subdivision pertaining to the rental unit may: (1) notify the tenants of the rental unit of the assessment of the fee; and (2) require the tenants of the rental unit to reimburse the owner for the payment of the fee. Tenants of a rental unit may not be required to reimburse the owner of a rental unit for fees assessed by a political subdivision relating to the construction of the rental unit, such as building permit fees. Any inspection, registration or other fee assessed and collected by a political subdivision must be maintained in a special fund dedicated solely to reimbursing the costs reasonably related to services actually performed by the political subdivision that justified the imposition and amount of the fee. Each fund shall be maintained as a separate line item in the political subdivision's budget. Money in the fund may not at any time revert to the general fund or any other fund of the political subdivision.

**PUBLIC LAW 218 - SENATE ENROLLED ACT 388 – EFFECTIVE JULY 1, 2011**

**Swap Agreements** – Adds IC 5-1-14-17.2 – Amends IC 5-1-14-1.3 – Provides that a swap agreement may be used only in connection with the financing activities of an issuing body and may not be used as an investment by an issuing body. Provides that a swap agreement may be entered into only under the following conditions: (1) The swap agreement would not cause the aggregate outstanding notional amounts of all of the issuing body's outstanding swap agreements on obligations payable from tax revenues to exceed 20% of the sum of all aggregate outstanding obligations of the issuing body payable from tax revenues plus obligations payable from tax revenues not yet issued but for which one or more swap agreements have been entered into by the issuing body. (2) The issuing body has adopted a comprehensive swap agreement policy at a public meeting that is not less restrictive than the swap agreement policy governing the adoption of swap agreements that is in place for the Indiana Transportation Finance Authority. (3) The swap agreement is approved by the issuing body at a public meeting and the resolution includes a thorough analysis of the risk the issuing body is assuming by entering into the swap agreement. Requires reports by the issuing body to its governing board regarding swap agreements. **DUE TO LANGUAGE CONTAINED IN IC5-1-14-17.2(c), IT IS DOUBTFUL A COUNTY COULD ENTER INTO SUCH AGREEMENTS.**

**PUBLIC LAW 229 – HOUSE ENROLLED ACT 1001 – EFFECTIVE JULY 1, 2011**

**State Budget Bill** – Sets the State Budget for the next two (2) fiscal years.

**Supplemental Distributions of LOITS** – Amends 6- 3.5 – Supplemental distribution is not required to be deposited into the Rainy Day Fund.

**Automated Record Keeping Fee** – Amends IC 33-37-5-21 – Reduces the automated record keeping fee collected on all civil, criminal, infractions, and ordinance violation cases from seven dollars (\$7) to five dollars (\$5) effective July 1, 2011.

**Distribution of the Automated Record Keeping Fee** -Amends IC 33-37-7-2 – If the county uses the odyssey system 100% is distributed to the state. If the odyssey system is not used \$4 goes to the state and \$1 is deposited into the clerk's perpetuation fund.

**Clerk's Perpetuation Fund** – Amends IC 33-37-5-2 – Portion of automated record keeping fee as allowed under IC 33-37-7-2 is deposited in this fund. Additional language to specifically allow fund to be used for a case management system.

**Public Defense Administration Fee** - Amends IC 33-37-5-21.2 – Raises the public defense administration fee in each action in which a person is (1) convicted of an offense; (2) required to pay a pretrial diversion fee; (3) found to have committed an infraction; or (4) found to have violated an ordinance from three dollars (\$3) to five dollars (\$5).

**Deferral and Pretrial Diversion Programs** - Amends IC 33-37-8-6 – Requires funds derived from deferral or pretrial diversion program be appropriated by the adoption of an ordinance appropriating the funds for one (1) or more of the purposes listed in IC 33-37-8-6(b). Requires the Indiana Criminal Justice Institute to study the use of diversion and deferral programs and the use of plea bargaining and report its findings to the State Budget Committee before December 1, 2011.