

# THE COUNTY BULLETIN

## And Uniform Compliance Guidelines

### ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 382

April 2012

#### REMINDER OF ORDER OF BUSINESS

#### April

- 6 Good - Friday - Legal Holiday (IC 1-1-9-1)
- 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.
- 24, 25 & 26 State Board of Accounts called meeting for County Recorders - Indianapolis
- 30 Last day to file quarterly report of federal withholding tax with Director of Internal Revenue Service.

#### May

- 1 Prepare report of school funds to Auditor of State and make payment of principal and interest due to Treasurer of State on the Common and Permanent Endowment Funds, and pay the Treasurer of State all fines and forfeitures on hand April 30, 2012, as shown in this report. (IC 20-42-1-6)
- 10 First installment of property taxes due. (IC 6-1.1-22-9)
- 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)
- 16, 17 & 18 State Board of Accounts called meeting for County Auditors – Elizabeth
- 20 Last day to report and make payment of State and County Income Tax withheld in April to Indiana Department of Revenue.
- 28 Memorial Day – Legal Holiday (IC 1-1-9-1)

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**REMINDER OF ORDER OF BUSINESS**  
**(Continued)**

**June**

- 1 Last date for filing County Highway Annual Operational Report with the State Board of Accounts and other governmental agencies. (IC 8-17-4.1-7)
- On or before 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)
- 12, 13 & 14 State Board of Accounts called meeting for Clerk of the Circuit Courts – French Lick
- 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 6-1.1-27-1 & IC 6-1.1-27-3)
- 30 Last day for County Treasurer to certify list of real property eligible for tax sale to County Auditor if May 10 first payment due date.
- On or after January 1 of each calendar year in which a tax sale will be held in a county and not later than 51 days after the first tax payment due date in that calendar year, the County Treasurer is to certify the list of real property eligible for tax sale to the county auditor. (IC 6-1.1-24-1)

**EXPENSES FOR ATTENDANCE AT PURDUE ROAD SCHOOL**

Expenses of county officials for attending the Purdue Road School are covered by the following statutes:

**County Highway Supervisor**

IC 8-17-3-10(a) states in part, "...The expenses of the county highway supervisor, including the actual expenses of transportation to and from the school, together with the expense of lodging and tuition, shall be paid from the county highway maintenance fund."

**Board of County Commissioners**

IC 8-17-7-7 states, "Each member of the county executive shall attend any school or course conducted for local officials under IC 8-23-9-56. The fiscal body of each county may appropriate sufficient funds to pay each member of the county executive a per diem for expenses for each day or part of a day the member is in attendance at any school or course conducted for local officials under IC 8-23-9-56, and to pay the member a sum for mileage at a rate determined by the county fiscal body for each mile traveled to attend the school.

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**EXPENSES FOR ATTENDANCE AT PURDUE ROAD SCHOOL (Continued)**

**Other County Personnel**

IC 36-9-8 permits the county surveyor or county engineer, and any other person authorized by the county commissioners to attend the annual road school and provides that their expenses including mileage, lodging and tuition to be paid from the county general fund. These expenses must be documented with proper receipts and approved by the board of commissioners before the county auditor can issue a warrant.

Mileage shall be at the rate per mile as approved by the county fiscal body for those authorized county officials and employees who used their personal conveyances in traveling to and from the road school.

All claims for reimbursement must be itemized and documented with paid receipts.

**EXPENSES FOR ATTENDANCE AT STATE BOARD OF ACCOUNTS STATE CALLED MEETINGS**

We appreciate and applaud efforts by the county council to be fiscally responsible. During tough budgetary times it is natural to restrict spending on those areas that may not be deemed absolutely necessary to the function of government. One of these areas that is naturally looked upon to reduce costs is travel. While many times travel may be viewed as optional there is of course travel that either is statutorily required or by its nature necessary. IC 5-11-14-1 entitles those officials called by State Board of Accounts to attend these meetings and it is our position that they should attend. Expenses for those officials called to attend state called meetings by the State Board of Accounts are required to be paid as follows under IC 5-11-14-1:

“(g) Each official representing a unit and attending any conference under this section shall be allowed the following:

(1) A sum for mileage at a rate determined by the fiscal body of the unit the official represents for each mile necessarily traveled in going to and returning from the conference by the most expeditious route. Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance even if the official transports more than one (1) person.

(2) An allowance for lodging for each night preceding conference attendance in an amount equal to the single room rate. However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther from the conference location.

(3) Reimbursement of an official, in an amount determined by the fiscal body of the unit the official represents, for meals purchased while attending a conference called under this section.

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

(j) A claim for reimbursement under this section may not be denied by the body responsible for the approval of claims if the claim complies with IC 5-11-10-1.6 and this section.”

**LOANS BETWEEN FUNDS**

The authority for such loans is found in IC 36-1-8-4 which states, “...The fiscal body of a political subdivision may, by ordinance or resolution, permit the transfer of a prescribed amount, for a prescribed period, to a fund in need of money for cash flow purposes from another fund of the political subdivision if all these conditions are met:

(1) It must be necessary to borrow money to enhance the fund that is in need of money for cash flow purposes.

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**LOANS BETWEEN FUNDS (Continued)**

- (2) There must be sufficient money on deposit to the credit of the other fund that can be temporarily transferred.
- (3) Except as provided in IC 36-1-8-4(b), the prescribed period must end during the budget year of the year in which the transfer occurs.
- (4) The amount transferred must be returned to the other fund at the end of the prescribed period.
- (5) Only revenues derived from the levying and collection of property taxes or special taxes or from operation of the political subdivision may be included in the amount transferred.”

If the fiscal body of the political subdivision determines that an emergency exists that requires an extension of the prescribed period of a transfer under this section, the prescribed period may be extended for not more than six (6) months beyond the budget year of the year in which the transfer occurs if the fiscal body does the following:

- (1) Passes an ordinance or a resolution that contains the following:
  - (A) A statement that the fiscal body has determined that an emergency exists.
  - (B) A brief description of the grounds for the emergency.
  - (C) The date the loan will be repaid that is not more than six (6) months beyond the budget year in which the transfer occurs.
- (2) Immediately forwards the ordinance or resolution to the State Board of Accounts and the Department of Local Government Finance.”

Since the county auditor keeps the funds ledger we feel it would be appropriate for the county auditor to initiate such loans.

Upon adoption of the ordinance or resolution by the county council the auditor is authorized to make such a loan.

**CREDIT CARDS**

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.

**CREDIT CARDS (Continued)**

7. Payment should not be made on the basis of a 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 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.

**SUPPLEMENTAL JUVENILE PROBATION SERVICES FUND**

IC 31-40-2-1 authorized the establishment of a Supplemental Juvenile Probation Services Fund to be funded by a probation user's fee established by the courts and states:

"(a) Subject to IC 31-40-1-3, a juvenile court may order each delinquent child who receives supervision under IC 31-37-19 or the child's parent, guardian, or custodian to pay to either the probation department or the clerk of the court:

- (1) an initial probation user's fee of at least twenty-five dollars (\$25) but not more than one hundred dollars (\$100);
- (2) a probation user's fee of at least ten dollars (\$10) but not more than twenty-five dollars (\$25) for each month the child receives supervision; and
- (3) an administrative fee of one hundred dollars (\$100) if the delinquent child is supervised by a juvenile probation officer. [ See *Juvenile Probation Administrative Fund article; Italicize added by SBOA*]

(b) If a clerk of a court collects a probation user's fee, the clerk:

- (1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under IC 33-37-5-2; and
- (2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:
  - (A) county auditor who shall deposit the money transferred under this subdivision into the county general fund;
  - (B) city general fund when requested by the city fiscal officer; or
  - (C) town general fund when requested by the town fiscal officer.

(c) The probation department or clerk shall collect the administrative fee under subsection (a)(3) before collecting any other fee under subsection (a). The probation department or the clerk shall deposit the probation user's fees and the administrative fees paid under subsection (a) into the county supplemental juvenile probation services fund."

IC 31-40-2-1.7 allows for the early payment of probation user fees but specifies that such fees paid in advance may not be refunded.

IC 31-40-2-2 provides that the county council appropriates the money from the county juvenile probation services fund and that it is to be used for supplementing probation services to juveniles and to supplement the salaries of juvenile probation officers in accordance with IC 31-31-5.

IC 31-40-2-4 prohibits the funds being used to replace other funding or probation services.

Finally, IC 31-40-2-1(d)-(f) allows the probation user fees to be paid by credit card and states:

**SUPPLEMENTAL JUVENILE PROBATION SERVICES FUND (Continued)**

“(d) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(e) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (a).

(f) The probation department shall deposit the credit card service fees collected under subsection (e) into the county supplemental juvenile probation services fund. These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.”

**JUVENILE PROBATION ADMINISTRATIVE FUND**

In 2003 Senate Bill 506 under non code section 16, and later in 2011 under the new section IC 36-2-16.5-6, both required a more restricted use for the \$100 administrative fee collected under IC 31-40-2-1(a)(3). IC 31-40-2-2 requires the receipts in the supplemental juvenile probation services fund to be used for supplementing probation services to juveniles and supplementing the salaries of juvenile probation officers. IC 36-2-16.5-6 requires that the administrative fee first be used to pay for the salary increases required under IC 36-2-16.5 and IC 11-13-1-8. The amount of these fees collected that exceed the amount required to pay for these salary increases may then be used for supplementing probation services.

In a memorandum dated August 4, 2003, the State Board of Accounts instructed that these fees be accounted for in a separate fund due to the more restrictive expenditure requirement. Under the new chart of accounts this fund is entitled Juvenile Probation Administrative.

**SUPPLEMENTAL ADULT PROBATION SERVICES FUND**

IC 35-38-2-1 requires a probation user's fee to be paid when a person is convicted of a felony and permits a probation users fee to be paid when a person is convicted of a misdemeanor. IC 35-38-2-1 (b)-(f) and (h)-(i) state:

“(b) In addition, if the person was convicted of a felony and is placed on probation, the court shall order the person to pay to the probation department the user's fee prescribed under subsection (d). If the person was convicted of a misdemeanor, the court may order the person to pay the user's fee prescribed under subsection (e). The court may:

- (1) modify the conditions (except a fee payment may only be modified as provided in section 1.7(b) of this chapter); or
- (2) terminate the probation;  
at any time. If the person commits an additional crime, the court may revoke the probation.

(c) If a clerk of a court collects a probation user's fee, the clerk:

- (1) may keep not more than three percent (3%) of the fee to defray the administrative costs of collecting the fee and shall deposit any fee kept under this subsection in the clerk's record perpetuation fund established under IC 33-37-5-2; and
- (2) if requested to do so by the county auditor, city fiscal officer, or town fiscal officer under clause (A), (B), or (C), transfer not more than three percent (3%) of the fee to the:

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**SUPPLEMENTAL ADULT PROBATION SERVICES FUND (Continued)**

(A) county auditor, who shall deposit the money transferred under this subdivision into the county general fund;

(B) city general fund when requested by the city fiscal officer; or

(C) town general fund when requested by the town fiscal officer.

(d) In addition to any other conditions of probation, the court shall order each person convicted of a felony to pay:

(1) not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) as an initial probation user's fee;

(2) a monthly probation user's fee of not less than fifteen dollars (\$15) nor more than thirty dollars (\$30) for each month that the person remains on probation;

(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter;

(4) an alcohol abuse deterrent fee and a medical fee set by the court under IC 9-30-9-8, if the court has referred the defendant to an alcohol abuse deterrent program; and

(5) an administrative fee of one hundred dollars (\$100); [*See Adult Probation Administrative Fund article; Italicize added by SBOA*]

to either the probation department or the clerk.

(e) In addition to any other conditions of probation, the court may order each person convicted of a misdemeanor to pay:

(1) not more than a fifty dollar (\$50) initial probation user's fee;

(2) a monthly probation user's fee of not less than ten dollars (\$10) nor more than twenty dollars (\$20) for each month that the person remains on probation;

(3) the costs of the laboratory test or series of tests to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV) if such tests are required by the court under section 2.3 of this chapter; and

(4) an administrative fee of fifty dollars (\$50); [*See Adult Probation Administrative Fund article; Italicize added by SBOA*]

to either the probation department or the clerk.

(f) The probation department or clerk shall collect the administrative fees under subsections (d)(5) and (e)(4) before collecting any other fee under subsection (d) or (e). All money collected by the probation department or the clerk under this section shall be transferred to the county treasurer, who shall deposit the money into the county supplemental adult probation services fund. The fiscal body of the county shall appropriate money from the county supplemental adult probation services fund:

(1) to the county, superior, circuit, or municipal court of the county that provides probation services to adults to supplement adult probation services; and

(2) to supplement the salaries of probation officers in accordance with the schedule adopted by the county fiscal body under IC 36-2-16.5.

(h) Except as provided in subsection (j), the county or local supplemental adult probation services fund may be used only to supplement probation services and to supplement salaries for probation officers. A supplemental probation services fund may not be used to replace other funding of probation services. Any money remaining in the fund at the end of the year does not revert to any other fund but continues in the county or local supplemental adult probation services fund.

(i) A person placed on probation for more than one (1) crime:

(1) may be required to pay more than one (1) initial probation user's fee; and

(2) may not be required to pay more than one (1) monthly probation user's fee per month; to the probation department or the clerk."

IC 35-38-2-1.7 allows for the early payment of probation user fees but specifies that such fees paid in advance may not be refunded.

IC 35-38-2-1 (k)-(m) allows the probation user fees to be paid by credit card and states:

**SUPPLEMENTAL ADULT PROBATION SERVICES FUND (Continued)**

“(k) In addition to other methods of payment allowed by law, a probation department may accept payment of fees required under this section and section 1.5 of this chapter by credit card (as defined in IC 14-11-1-7). The liability for payment is not discharged until the probation department receives payment or credit from the institution responsible for making the payment or credit.

(l) The probation department may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the probation department or charged directly to the probation department's account, the probation department may collect a credit card service fee from the person using the bank or credit card. The fee collected under this subsection is a permitted additional charge to the money the probation department is required to collect under subsection (d) or (e).

(m) The probation department shall forward the credit card service fees collected under subsection (l) to the county treasurer or city or town fiscal officer in accordance with subsection (f) or (g). These funds may be used without appropriation to pay the transaction charge or discount fee charged by the bank or credit card vendor.”

**ADULT PROBATION ADMINISTRATIVE FUND**

In 2003 Senate Bill 506 under non code section 16, and later in 2011 under the new section IC 36-2-16.5-6, both required a more restricted use for the \$100 administrative fee collected under IC 35-38-2-1(f) and IC 35-38-2-1(g). IC 35-38-2-1 allows the supplemental adult probation services fund to be used for supplementing probation services and supplementing the salaries of probation officers. IC 36-2-16.5-6 requires that the administrative fee be first used to pay for the salary increases required under IC 36-2-16.5 and IC 11-13-1-8. The amount of these fees collected that exceed the amount required to pay for these salary increases may then be used for supplementing probation services.

In a memorandum dated August 4, 2003, the State Board of Accounts instructed that these fees be accounted for in a separate fund due to the more restrictive expenditure requirement. Under the new chart of accounts this fund is entitled Adult probation Administrative.

**SPECIAL PROSECUTOR**

IC 33-39-1-6 provides for the appointment of a special prosecutor by the circuit or superior court judge. IC 33-39-1-6 (g)-(j) provides for the compensation of a special prosecutor and 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:



**SPECIAL PROSECUTOR (Continued)**

(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.

(j) A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more than one hundred (100) calendar days in total during a calendar year if the senior prosecuting attorney receives retirement benefits during the calendar year. However, if the senior prosecuting attorney does not receive retirement benefits during a calendar year, the senior prosecuting attorney may be compensated as a senior prosecuting attorney for not more than two hundred (200) calendar days in total during the calendar year."

**LEVY EXCESS FUND**

IC 6-1.1-18.5-17 defines levy excess to mean the part of the ad valorem property tax levy actually collected by a civil taxing unit, for taxes first due and payable during a particular calendar year, that exceeds the civil taxing unit's ad valorem property tax levy, as approved by the department of local government finance. It requires that the levy excess be deposited into a fund to be known as the levy excess fund except as provided under IC 6-1.1-18.5-17 (h) and (i) which state:

"(h) If the amount that would, notwithstanding this subsection, be deposited in the levy excess fund of a civil taxing unit for a particular calendar year is less than one hundred dollars (\$100), no money shall be deposited in the levy excess fund of the unit for that year.

(i) This subsection applies only to a civil taxing unit that:

(1) has a levy excess for a particular calendar year;

(2) in the preceding calendar year experienced a shortfall in property tax collections below the civil taxing unit's property tax levy approved by the department of local government finance under IC 6-1.1-17; and

(3) did not receive permission from the department to impose, because of the shortfall in property tax collections in the preceding calendar year, a property tax levy that exceeds the limits imposed by section 3 of this chapter.

The amount that a civil taxing unit subject to this subsection must transfer to the civil taxing unit's levy excess fund in the calendar year in which the excess is collected shall be reduced by the amount of the civil taxing unit's shortfall in property tax collections in the preceding calendar year (but the reduction may not exceed the amount of the civil taxing unit's levy excess)."

To expend the levy excess IC 6-1.1-18.5-17 (d)-(g) states:

" (d) The department of local government finance shall require a civil taxing unit to include the amount in its levy excess fund in the civil taxing unit's budget fixed under IC 6-1.1-17.

(e) Except as provided by subsection (f), a civil taxing unit may not spend any money in its levy excess fund until the expenditure of the money has been included in a budget that has been approved by the department of local government finance under IC 6-1.1-17. For purposes of fixing its budget and for purposes of the ad valorem property tax levy limits imposed under this chapter, a civil taxing unit shall treat the money in its levy excess fund that the department of local government finance permits it to spend during a particular calendar year as part of its ad valorem property tax levy for that same calendar year.

(f) A civil taxing unit may transfer money from its levy excess fund to its other funds to reimburse those funds for amounts withheld from the civil taxing unit as a result of refunds paid under IC 6-1.1-26.

**LEVY EXCESS FUND (Continued)**

(g) Subject to the limitations imposed by this section, a civil taxing unit may use money in its levy excess fund for any lawful purpose for which money in any of its other funds may be used.”

**MINIMUM TAX BILLS**

IC 6-1.1-22-9(g) states: “Notwithstanding any other law, a property tax liability of less than \$5 is increased to \$5. The difference between the actual liability and the \$5 amount that appears on the statement is a statement processing charge. The statement processing charge is considered a part of the tax liability.”

It is our audit position that the \$5 is \$5 per year (\$2.50 per installment) and not \$5 per installment.

If a person has a veteran’s deduction that reduces their tax liability to zero, **DO NOT CHARGE THE \$5 MINIMUM TAX BILL.** This also applies to churches, cemeteries, fraternal organizations and not for profit organizations that have exemptions that reduce their tax liability to zero.

The statement processing fee becomes a part of the collections and it is not necessary to keep a separate accounting of the amounts collected for statement processing fees.

Since the statement processing fee is a part of the total tax liability, the same penalties for delinquencies apply to this fee as apply to property taxes.

The \$5 minimum tax bill does not apply to conservancy district taxes and other special assessments (i.e. Barrett Law, Line Fence, Delinquent Dog Tax, Weed Cutting Assessments, etc).

However, since the taxes on lands classified as forest reserve are real estate taxes, the \$5 minimum tax bill does apply to taxes on lands classified as forest reserve.

**MANDATE OF FUNDS**

Trial Rule 60.5 states:

“(A) Scope of mandate. Courts shall limit their requests for funds to those which are reasonably necessary for the operation of the court or court-related functions. Mandate will not lie for extravagant, arbitrary or unwarranted expenditures nor for personal expenditures (e.g., personal telephone bills, bar association memberships, disciplinary fees).

Prior to issuing the order, the court shall meet with the mandated party to demonstrate the need for said funds. At any time in the process, the dispute may be submitted to mediation by agreement of the parties or by order of the Supreme Court or the special judge.

(B) Procedure. Whenever a court, except the Supreme Court or the Court of Appeals, desires to order either a municipality, a political subdivision of the state, or an officer of either to appropriate or to pay unappropriated funds for the operation of the court or court-related functions, such court shall issue and cause to be served upon such municipality, political subdivision or officer an order to show cause why such appropriation or payment should not be made. Such order to show cause shall be captioned “Order for Mandate of Funds”. The matter shall be set for trial on the merits of such order to show cause unless the legislative body, the chief executive officer or the affected officer files a waiver in writing of such a trial and agrees to make such appropriation or payment.

The trial shall be without a jury, before a special judge of the court that made the order. There shall be no change of venue from the county or from the special judge appointed by the Supreme Court. The court shall promptly notify the Supreme Court of the entry of such order to show cause and the Supreme Court shall then appoint as special judge an attorney who is not a current or former regular

**MANDATE OF FUNDS (Continued)**

judge and who does not reside nor regularly practice law in the county issuing the Order of Mandate of Funds or in any county contiguous thereto.

If the appointed judge fails to qualify within seven [7] days after he has received notice of his appointment, the Supreme Court shall follow the same procedure until an appointed judge does properly qualify.

Unless expressly waived by the respondent in writing within thirty (30) days after the entering of the trial judge's decree, a decree or order mandating the payment of funds for the operation of the court or court-related functions shall be automatically reviewed by the Supreme Court. Promptly on expiration of such thirty (30) day period, the trial judge shall certify such decree together with either a stipulation of facts or an electronic transcription of the evidence to the Supreme Court. No motion to correct error nor notice of appeal shall be filed. No mandate order for appropriation or payment of funds made by any court other than the Supreme Court or Court of Appeals shall direct that attorney fees be paid at a rate greater than the reasonable and customary hourly rate for an attorney in the county.

No mandate order shall be effective unless it is entered after trial as herein provided and until the order has been reviewed by the Supreme Court or such review is expressly waived as herein provided."

**ASSIGNMENT OF WAGES**

Assignment of wages is addressed under IC 22-2-6. IC 22-2-6-2 in regard to requisites states:

"(a) Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied:

(1) The assignment is:

(A) in writing;

(B) signed by the employee personally;

(C) by its terms revocable at any time by the employee upon written notice to the employer; and

(D) agreed to in writing by the employer.

(2) An executed copy of the assignment is delivered to the employer within ten (10) days after its execution.

(3) The assignment is made for a purpose described in subsection (b).

(b) A wage assignment under this section may be made for the purpose of paying any of the following:

(1) Premium on a policy of insurance obtained for the employee by the employer.

(2) Pledge or contribution of the employee to a charitable or nonprofit organization.

(3) Purchase price of bonds or securities, issued or guaranteed by the United States.

(4) Purchase price of shares of stock, or fractional interests therein, of the employing company, or of a company owning the majority of the issued and outstanding stock of the employing company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.

(5) Dues to become owing by the employee to a labor organization of which the employee is a member.

(6) Purchase price of merchandise sold by the employer to the employee, at the written request of the employee.

(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee subject to the amount limits set forth in section 4(c) of this chapter.

**ASSIGNMENT OF WAGES (Continued)**

(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.

(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.

(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.

(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.

(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.

(13) A judgment owed by the employee if the payment:

(A) is made in accordance with an agreement between the employee and the creditor; and

(B) is not a garnishment under IC 34-25-3."

**COUNTY ELECTED OFFICIALS TRAINING FUND**

As of July 1, 2011, IC 36-2-7-19 required each county to establish the county elected officials training fund. This is fund number 1217 in the new chart of accounts. The fund consists of money deposited under IC 36-2-7.5-6(c)(3) from collections of the county recorder in the form of the county identification security protection fee. Money in the fund shall be used solely to provide training of county elected officials required by IC 36-2-11-2.5, IC 36-2-12-2.5, and other similar laws. IC 36-2-11-2.5 covers required training for county recorders. IC 36-2-12-2.5 is regarding training for county surveyors. Clerks of the circuit court have a similar law in IC 33-32-2-9.

At this time, these are the only county elected officials that are eligible to use monies in this fund for training expenses. The statute requiring the creation of this fund does not exempt the fund from requiring appropriations prior to disbursements from the fund. Therefore, appropriation by the county council is needed either during the budget adoption process or through the use of additional appropriations. Since multiple offices can use these training funds if appropriation is provided budgeting this fund needs to be done with the county council's understanding of the limitations on the fund as well as the coordination of each of the officials eligible to use the fund.

**COURT FEES**

State Court Administration has provided the following clarification on charging of fees for hardship Licenses cases and in judicial review in habitual violator cases. This is further clarification of the article presented in April 2010 County Bulletin Vol. No. 372 on page 11.

IC 9-24-15 establishes procedures for a person whose driving license has been suspended under the motor vehicle laws to petition a court to issue a restricted license due to hardship under certain circumstances. IC 9-24-15-5(e) requires that court costs (including fees) must be charged to the petitioner, but doesn't specifically state which court cost applies. IC 9-30-10-7 provides for judicial review in habitual violator cases. IC 9-30-10-7(f) provides that the court costs (including fees) to be charged for judicial review in habitual violator cases are same as the costs (including fees) that are charged in enforcement of infractions. Because petitions for judicial review under IC 9-30-10 and petitions for restricted license due to hardship under IC 9-24-15 are both assigned the MI case type when filed, to reduce confusion among clerks about which court costs should be assessed --civil costs or infraction costs-- the Division had previously instructed that the infraction costs should be assessed in ALL hardship license cases.

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And Uniform Compliance Guidelines

**COURT FEES (Continued)**

However, based on further review and consideration, the Division's position with respect to the court costs that should be charged for hardship license cases now is that regular civil costs should be charged in proceedings under IC 9-24-15, and that the infraction costs should only be charged in the judicial review cases. Because both types of proceedings are to be assigned the MI case type, we have prepared the following chart to help clerks distinguish which type of proceeding is being filed so that the appropriate costs can more easily be identified and assessed.

**How to Distinguish a Petition for Hardship License from a Petition for Judicial Review of Habitual Violator Suspension**

	Petitions for Restricted License Because of Hardship Under IC 9-24-15 [Normal Civil Court Costs]	Petitions for Judicial Review of Habitual Violator Suspensions Under IC 9-30-10 [Infraction Court Costs]
Petition	IC 9-24-15-2 allows a person whose driver's license is suspended to file a verified petition for a restricted driving permit for the sole purpose of driving to and from work and in the course of employment during the period of suspension because, due to the nature of the person's employment, the suspension would be an undue hardship and burden on the person's family or dependents.	IC 9-30-10-6 allows a person who has been determined by the BMV to be an Habitual traffic Violator to file a petition for judicial review.
Parties	<u>BMV is NOT a party</u> ; the case is docketed in the name of the petitioner against the prosecuting attorney of the county.	<u>BMV is a party</u> ; summons in the manner of civil action. Prosecutor and BMV are to be served with summons and copy of the complaint. Prosecutor represents BMV in court. IC 9-30-10-7
Case Type	MI	MI
Costs	IC 9-24-15-5(e) Court costs (including fees) for the action on the petition must be charged against the petitioner. The prosecuting attorney of the county is not liable or taxable for any costs (including fees) in any action under this chapter.	IC 9-30-10-7(f) Court costs (including fees) shall be assessed and paid by the petitioner at the time of filing in an amount equal to the costs (including fees) assessed in the enforcement of infractions. However, a petitioner who has the petitioner's driving privileges reinstated under section 8 of this chapter is entitled to a refund of all costs paid.
Relief	IC 9-24-15-6: Except when the court is required to grant the petition under 9-24-15-6.5, the court can either refuse to grant the petition or make a final determination in the form of a recommendation to the BMV that the person be granted a restricted driving permit.	IC 9-30-10-8: If the court finds the person is not an HTV, the court must order the BMV to reinstate the person's driving privileges. If the court finds that the person is an HTV, the person's driving privileges remain suspended unless the Court places the person on probation under IC 9-30-10-9.



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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, 2012. 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, 2012 and thereafter ending on the fourteenth (14<sup>th</sup>) day of each succeeding month. Claims for meals for the month beginning December 15<sup>th</sup> 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 20<sup>th</sup> day of March, 2012  
DG/TRW:db