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# 2011 City and Town Budget Bulletin



Indiana Association *of*  
Cities and Towns

*Your Partner in Good Government*

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*July 2010*



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*The City and Town Budget Bulletin is published by the Indiana Association of Cities and Towns as a service to its members. The Association thanks the Department of Local Government Finance, Umbaugh and Ice Miller for their assistance in the preparation of this bulletin.*

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This *City and Town Budget Bulletin* is designed to assist city and town officials with the responsibility of developing and adopting a budget. The first section of this publication is a narrative that discusses some generalities of the Indiana municipal budget process, including how to determine expenses and revenues, and how to balance the budget. The text organizes the budget process into the logical steps that a municipality would take to reach the final adoption of a budget. Supplements follow to help with specific components of a municipal budget. All municipalities *may not* need to use the information provided in every supplement to complete a budget.

## **Budget Calendar and Procedures**

**NOTE:** The dates below include changes made in HEA 1001(ss) by action of the 2009 General Assembly during the Special Session. Please note that the deadlines occurring on a Saturday, Sunday, or Legal Holidays are effective on the next business day.

<b>June through July</b>	Fiscal Officer (with Mayor & Department Heads) prepares budget estimates.
<b>July through August</b>	Preparation of budget forms; prepare budget revenue estimates pursuant to IC 36-4-7-6 for cities or IC 36-5-3-3 for towns.
<b>July 31, 2010</b>	Last day to adopt ordinance establishing, increasing, or decreasing COIT (IC 6-3.5-6-8(c)), CAGIT (IC 6-3.5-1.2-2(c)), or CEDIT (IC 6-3.5-7-5(d)) rates.
<b>August 1, 2010</b>	Last day for the Department of Local Government Finance to receive an ordinance creating a cumulative fund (IC 6-1.1-17-16.7).
<b>August 1, 2010</b>	County Auditor's deadline to certify net assessed values and estimates of miscellaneous revenues with units and DLGF. (IC 6-1.1-17-1)
<b>August 1, 2010</b>	The Department of Revenue shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year.
<b>September 2, 2010</b>	Last day for first publication of proposed levy, budget and notice to taxpayers of public hearing (Budget Form 3). Ten (10) days notice (IC 6-1.1-17-3 & 5) must be given before the pre-adoption public hearing on the budget. Must include time and place of hearing in notice (IC 6-1.1-17-3).
<b>September 9, 2010</b>	Last day for second publication of proposed levy, budget and notice to taxpayers of public hearing (Budget Form 3). Seven (7) days after the first publication (IC 5-3-1) and three (3) days prior to the meeting.
<b>September 17, 2010</b>	Deadline to submit proposed budget, rates, and levies to County Council for non-binding review and recommendation. Must be submitted <b>45 days</b> prior to budget adoption. (IC 6-1.1-17-3.5(d)).
<b>September 30, 2010</b>	Units requesting a max levy adjustment for Pay 2011 should do so in writing by September 30, 2010. HEA 1086-2010 allows the Department of Local Government Finance to adjust the maximum levy calculation provided in IC 6-1.1-18.5. According to the change, if there is unraised max levy from the prior year, the Department may allow more than 50 percent of the unraised max levy to carry forward to the next year. The request must contain the dollar amount of the requested adjustment, the dollar amount of cash balances utilized to fund 2010 expenditures and a list of all transfers to the Rainy Day fund.

<b>September 30, 2010</b>	Deadline for cities and counties to adopt the salary ordinance for the following year. This adoption deadline is for the appointed officials and city employees' salary ordinance and also the police and fire department members' salary ordinance. (IC 36-2-5-3; IC 36-4-7-3; IC 36-5-3-2)
<b>October 2, 2010</b>	Last day for taxing units with appointed governing bodies that is either: conservancy district, solid waste management district, or fire protection district; or has a proposed budget increase from previous year over the 3.8% assessed value growth quotient, to submit proposed budgets, rates, and levies to appropriate city/town or county fiscal body for final adoption (thirty (30) days before city/town or county fiscal body is required to adopt their budget). IC 6-1.1-17-20.
<b>October 17, 2010</b>	Last day for county fiscal body to complete review and issue non-binding recommendation to civil taxing units regarding civil taxing units' proposed tax rates, levies, and budgets. Must be completed fifteen (15) days before the civil taxing unit adopts its rate, levy, and budget. IC 6-1.1-17-3.5.
<b>October 19, 2010</b>	Last day for taxing units to file excessive levy appeals for annexation/consolidation/extension of services (IC 6-1.1-18.5-13(1)), 3 year growth factor (IC 6-1.1-18.5-13(3)), emergency levy appeal (IC 6-1.1-18.5-13(13)) and correction of error with DLGF. (IC 6-1.1-18.5-14 and IC 6-1.1-18.5-12).
<b>October 22, 2010</b>	Last day for civil taxing unit to hold the pre-adoption public hearing. Hearing must be held at least 10 days before adopting budget (IC 6-1.1-17-5).
<b>October 29, 2010</b>	Last day ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision (must occur not more than seven (7) days after the hearing). IC 6-1.1-17-5(b).
<b>October 31, 2010</b>	Last day to adopt a "new" LOIT for levy freeze, public safety, or property tax relief. IC 6-3.5-1.1-24, IC 6-3.5-1.1-25, IC 6-3.5-1.1-26, IC 6-3.5-6-30, IC 6-3.5-6-31, or IC 6-3.5-6-32. HEA 1001(ss), Sec. 482.
<b>November 1, 2010</b>	Last day for final adoption of budgets by officers of cities and towns on or before November 1 (IC 6-1.1-17-5). If a taxpayer objection petition is filed, the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing. IC 6-1.1-17-5(c).
<b>November 3, 2010</b>	Last day to file copies of budget, tax levy and rate with the county auditor, Must not be later than two (2) days after budget adoption (IC 6-1.1-17-5).
<b>November-December 2010</b>	Department of Local Government Finance field hearings on budget and preliminary hearings on excessive levy appeals.
<b>December 31, 2010</b>	Last day for <b>second and third class cities</b> to pass a salary ordinance fixing the compensation of <b>elected city officials</b> (IC 36-4-7-2) and last day for <b>towns</b> to pass a salary ordinance fixing the annual compensation for <b>town elected officials and employees</b> (IC 36-5-3-2). The requirement for publication of city elected officials salaries has been eliminated.
<b>February 15, 2011</b>	Department of Local Government Finance final certification of budgets, rates and levies (IC 6-1.1-17-16 Version C).

## Getting Started

The ideal way to construct a budget is to begin with needs — what services should be provided and at what level. Another approach is to begin the budget by examining the current budget. It is important to understand the current financial situation prior to making important fiscal decisions on what to include in the next year's budget.

In Indiana, maximum levy controls cap the revenue that can be raised by property taxes. This limits revenues available to local governments. Currently, the maximum levy growth is based on a six-year average of Indiana's non-farm personal income (growth quotient). This growth quotient is calculated annually by the State Budget Agency. The allowable percentage growth for 2011 is **2.9%**

Indiana Code provides that municipalities may seek approval to increase their maximum levy above the growth quotient under certain circumstances. Indiana Code sets forth a process to appeal for an excessive levy. This topic is discussed in greater detail in Supplement 4 of this bulletin.

Local governments may levy additional taxes outside of the property tax controls. In addition to property taxes levied to pay the debt service on bonds, local governments may establish cumulative capital development funds (CCDF). These funds are rate-driven funds, meaning that the funds are limited by specific rates pursuant to Indiana Code. Supplement 5 will provide additional information regarding cumulative funds.

Municipalities in County Option Income Tax (COIT), County Adjusted Gross Income Tax (CAGIT) and/or Economic Development Income Tax (EDIT) counties receive revenues from these income taxes. Revenues from these taxes are in addition to the property taxes collected and are included in the budget as miscellaneous revenue. However, municipalities in CAGIT counties are subject to a maximum levy that results from a complex formula. For most municipalities, the formula allows a combined increase in property and income taxes in the amount of the growth quotient, plus growth in revenues solely attributable to income taxes.

COIT and/or EDIT funds can be budgeted and used for any governmental or lawful purpose.

## The Budgeting Process

Municipal budgeting is the process of matching needed expenditures for the ensuing year with available funds or resources to pay for goods and services. Sometimes the process of compiling the financial needs of each department is temporarily performed independently of the process of calculating available revenues. Prescribed procedures will compel municipal officials, at some point, to match expenditures with revenues.

Municipal budgeting in Indiana is not one budget, but several budgets. In effect, there is a separate budget for each fund. Each fund will require separate compilation of budgeted expenses (**Form 1**), estimate of miscellaneous revenues (**Form 2**) and a financial statement (**Form 4-B**). After this process has been completed for every fund, the results will be compiled on the notice to taxpayers of budget estimates and tax levies (**Form 3**).

The budgeting process is conducted differently from municipality to municipality. As long as statutory guidelines are met, officials may use any procedure that works for their municipality. Traditionally, the philosophy of key officials and the financial condition of each municipality will have a bearing on the nature of the actual budget process in each locale.

## City Budgets

Indiana Code 36-4-7 prescribes a procedure for formulating city budgets. Basically, the law calls for the following:

- Each department head or the fiscal officer prepares a **Form 1** (the budget estimate) showing the amount of money required to operate the department in the next budget year.
- The city fiscal officer prepares an estimate of revenues available for the budget year and an estimate of all other expenditures not covered under the departmental budgets.
- The mayor meets with the department heads and the fiscal officer to review and revise the estimates.
- The fiscal officer prepares a report for the mayor of estimated department budgets including expenses, revenues and projected cash for all municipal funds.

Next, the budget is submitted to the city council for action.

## Town Budgets

Indiana Code 36-5-3-3 prescribes a similar procedure in towns, but allows towns to provide by ordinance, for a different budget procedure. Many towns have opted to complete **Form 1** (Budget Estimate) by fund, rather than by department. For example, the police, fire and town administration budgets may all be contained in the **Form 1** completed for the General Fund.

## City and Town Budget Forms

### **Form and Function**

**Note:** All forms are available to download in Microsoft Excel format at <http://www.in.gov/dlgf/4924.htm>

**Form 1:** Budget Estimate — Estimate expenditure needs; one form for each department (or fund in towns).

**Form 2:** Miscellaneous Revenues — Estimate miscellaneous revenues; one form for each fund.

**Form 3:** Notice to Taxpayers — Legal advertisement for publication; notice of budget meeting.

**Form 4:** Ordinance — Adoption document for budget and tax rates.

**Form 4-A:** Budget Report — Summary of budget actions.

**Form 4-B:** Financial Statement — Estimate of available funds; computation of tax rates. This form is known as the "sixteen line statement."

# The Expense Side

## **Form 1**

The process of building a budget begins with estimates of the unit's needs during the next fiscal year. How many police or firefighters will the unit employ? How much will they be paid? What benefits will be offered? Will you need to purchase new police or firefighting equipment? Will you need to provide training? All of these questions, and many more, must be considered as the budget is formulated.

Committing these ideas to paper begins with the completion of **Form 1**. This form contains the necessary expenditures proposed for the coming year.

### **Completing Form 1**

**Form 1** is fairly straightforward. Information showing the department or fund's estimated expenses in the ensuing budget year is entered according to the categories on the form and is totaled by each major budget classification, with a grand total at the end.

The major budget classifications and some special considerations are:

1. **Personal Services** — this category includes all expenses associated with personnel, including wages, salaries and fringe benefits. There are many statutory requirements for different classification of municipal employees or officials. These are outlined in **Supplement 6**.

Special considerations include:

- Proposed staffing levels;
- Wage adjustments;
- Changes in fringe benefits, such as increasing health insurance, unemployment insurance or worker's compensation costs;
- Pension costs, particularly police and fire pensions for cities and for those towns participating in the police and fire pension system; and
- Drug and alcohol testing costs.

2. **Supplies** — This category includes virtually all types of supplies, including office supplies, operating supplies and repair and maintenance supplies.

Special considerations include:

- Changes in demand for supplies caused by the addition of new programs or termination of old ones; and
- Possible cost changes, especially in supplies such as fuels and other petroleum-related products.

3. Other Services and Charges — this is a broad category that encompasses a wide variety of expenditures including:
- Professional services (such as legal or engineering services);
  - Communications and transportation (telephone, postage, etc.);
  - Printing and advertising;
  - Insurance (other than that contained in personal services);
  - Utility services;
  - Repairs and maintenance;
  - Rentals (including hydrant rental);
  - Debt service; and
  - Other services and charges (such as organization memberships or costs of official bonds). *Membership dues for the Indiana Association of Cities and Towns (TACT) are an example of one of the dues a municipality would budget in this category.*

Special considerations include:

- Changes in demand for, or cost of, professional services;
- Changes in postage or telephone rates; and
- Changes in insurance costs (auto, liability and property).

4. This category is limited to projected expenditures for capital improvements. Capital outlays may be budgeted for land, buildings, other improvements, machinery and equipment, and other capital needs.

Special considerations include:

- Long-term or ongoing projects requiring capital expenditures, such as right-of way acquisition;
- Method of financing (purchase, lease-purchase, etc.); and
- Fire apparatus, police vehicles, street sweepers, sanitation equipment, etc.

# The Revenue Side

## Form 2

**Form 2** must be completed for each fund that is budgeted. **Form 2** is an estimate of miscellaneous revenues which will be deposited into the fund. Miscellaneous revenues mean everything except property taxes. For each fund, only use those lines reflecting revenue types that are deposited into that fund. For example, when completing the **Form 2** for the Cumulative Capital Improvement Fund, most units would use only line 1504.

Column A of **Form 2** is for revenue estimated to be collected during the last six months of the current year. Column B is for revenue estimated to be collected during the next fiscal and calendar year beginning January 1 and ending December 31.

### Completing Form 2

Below is a guideline for completing **Form 2** for the General Fund, CCIF, MVH and LRS funds:

Line	Column A Revenue received between July 1 and December 31 of the current year	Column B Revenue received between January 1 and December 31 of the ensuing year
0201 — Financial Institutions Tax (FIT)	County auditor provides estimate	County auditor provides estimate
0202 — Excise tax	County auditor provides estimate	County auditor provides estimate
0203 — CAGIT certified shares	DLGF provides estimate	DLGF provides estimate
0204 — CAGIT PTRC	DLGF provides estimate	DLGF provides estimate
0212 — COIT	DLGF provides estimate	DLGF provides estimate
3101 — Dog license	*Use current figures	Base figures on past collections and best estimate
3201 — Building permits	*Use current figures	Base figures on past collections and best estimate
3202 — Street cut permits	*Use current figures	Base figures on past collections and best estimate
1501 — Liquor license	Last half of 2008	100% of 2009 budget figure
1502 — Alcohol gallonage	1.02 per Capita	2.00 per Capita
1503 — Cigarette tax	.39 per Capita	.72 per capita
2206 — Fire contracts	Use contract amount	Use contract amount
4104 — Court docket fee	Estimate from court	Estimate from court
4104 — Ordinance violations	*Use current figures	Base figures on past collections
6100, 6200 — Miscellaneous Revenue	Use best estimate	Use best estimate
5201 — Other sources	Use best estimate	Use best estimate
*If you know that the figures will change, use your best estimate.		
<b>Cumulative Capital Improvement Fund</b>		
1504 — Cigarette Tax	1.43 per Capita	2.63 per Capita
<b>Motor Vehicle Highway Fund</b>		
1416 — MVH distributions	10.67 per Capita	24.00 per Capita
MVH #1	August and September 2009	August and September 2009
MVH #2	1.34 per Capita	1.34 per Capita
<b>Local Road &amp; Street Fund</b>		
1417 — LRS	100% of the last half of 2009	100% of the first half of 2010 plus 100% of the last half of 2009
Note: Use your city/town's official 2000 census figures.		

## **Form 4-B**

After compiling the proposed expenditures on **Form 1** and miscellaneous revenues on **Form 2**, the Budget Estimate and Financial Statement **Form 4-B** should be completed. This form, sometimes referred to as the sixteen line statement, summarizes the total revenue needs for the fund and shows the sources from which that revenue will come. It is usually helpful to complete an initial draft using the best data available at the time and then make adjustments as better information is gained throughout the budget process.

The first five lines are used to compute total cash needs.

**Line 1**— the budget estimate for the ensuing year which is the total shown on Form 1.

**Line 2** — necessary expenditures for the last half of the present year. In most cases, this will be the unexpended appropriation as of June 30 of this year.

**Line 3** — the amount of additional appropriations the municipality anticipates making before the end of the current year.

**Line 4a** — used to show temporary loans made to the fund that must be repaid prior to the year's end.

**Line 4b** — used to show temporary loans made to the fund that will not be repaid by December 31 of the present year. (Repayment must be made by June 30 of the ensuing year and requires a resolution by the fiscal body.)

**Line 5** — the sum of lines 1-4 and represents total cash need for the ensuing 18 month period.

**Line 6** — the actual cash balance, including investments, as of June 30 of the current year.

**Line 7** — all property tax settlements due for the present year, but not yet received as of June 30. Unless there is a delay in the June settlement, this will normally be the December settlement. This information should be available from the county auditor.

**Line 8** — the miscellaneous revenue data compiled on **Form 2**. The miscellaneous revenue anticipated to be received in the last six months of the current year is taken from Column A of Form 2 and placed on line 8A. The revenue anticipated for the upcoming year is taken from Column B of **Form 2** and placed on line 8B.

**Line 9** — the total of lines 6 thru 8.

The remainder of the form is to calculate the amount of property taxes that will be needed to fund the budget and meet the indicated cash needs.

**Line 10** — result from subtracting the amount on Line 9 from Line 5. This represents the amount of money needed just to cover expenses for the next 18 months.

**Line 11**— amount desired for an operating balance. Since many municipalities experience cash flow difficulties, there is a provision for an operating balance.

**Line 12** — sum of lines 10 and 11. It represents the total amount of money needed from the coming year's property tax resources.

**Line 13a** — the amount of property tax replacement credit the unit will receive. The replacement credit is a subsidy of property tax by state-collected, non-property tax sources. The amount of tax credit should be available from the county auditor.

**Line 13b** — the amount of “levy freeze” LOIT the unit will receive. The levy freeze LOIT is a subsidy of property tax levy growth by state-collected, non-property tax sources.

**Line 14** — Line 13 **subtracted** from Line 12. This is the net amount to be raised from property taxes.

The amount shown on Line 14, once finalized, represents the amount of property taxes that will be levied in the ensuing year to fund the municipality for the next 18 months. In almost all cases, the initial data in the **Form 4-B** will need to be adjusted before the budget is finalized. In some instances, more accurate information will be available than the figures at hand initially. In other instances, the initial amount of property taxes to be levied exceeds the amount that can be levied.

## Balancing the Budget

After making an initial calculation of the net amount of property tax levy on line 14 of **Form 4-B** for all funds that are under property tax controls, a comparison must be made with the maximum levy allowed by law. The levy controls are not applied on each fund individually, but reapplied on the sum of all funds under the controls.

Examples of funds that are not under the controls are the Cumulative Capital Development Fund (CCDF) and bond repayment funds. Although the CCDF is not under the controls, it is subject to rate limitations (see **Supplement 5**).

After adding all controlled levies together, the sum should be compared to the maximum levy allowed by law. Units should contact the DLGF concerning calculation of the maximum levy. Their phone number is (317) 232-3777.

If the amount of property tax levy is less than the maximum levy, the budget can be fully funded without further adjustments. Some items may still require more scrutiny. In particular, the amount shown for an operating balance may need to be reviewed to see if it is adequate for the cash flow needs of the municipality.

If the amount of property tax levy shown on Line 14 is more than the maximum levy, action must be taken to bring the budget into balance. There are several measures which can be taken, some more severe than others.

1. The targeted operating balance, if any, can be reduced. At first glance, this is an easy way to balance the budget without reducing expenditures shown on **Form 1**. If the original operating balance is more than needed for cash flow, this may be a rational approach; however, if the original balance is needed, lowering the amount will drive up borrowing costs. Using this technique is a one-time device. The amount of operating balance used to fund the ensuing budget will not be available in the next budget cycle.

2. Miscellaneous revenues can be increased. While many of the revenues listed on Form 2 are fixed, some are not. User fees, licenses and permits can sometimes be increased. If local option taxes are imposed or increased, the resulting revenue increases will be reflected in miscellaneous revenue.
3. The budget estimate for the ensuing year can be lowered. This is the process of cutting the budget. If the initial budget allocated a substantial amount of funds for desirable, but nonessential items, this process will be relatively painless. Unfortunately, many municipalities are in a position that difficult choices will have to be made. It will be through this process that critical policy decisions will be made.
4. The municipality can appeal for an excessive levy. There are limited situations provided in Indiana law where the municipalities can appeal to the DLGF for a levy in excess of the maximum. The permissible grounds for such an appeal, the process and a sample resolution are included in Supplement 4. **If the municipality decides to appeal, the advertised and adopted budget must reflect the amounts included in the appeal.**

## **Wrapping It Up**

### **Advertising the Budget**

Budget **Form 3**, Notice to Taxpayers of Budget Estimates and Tax Rates, is the budget form which is advertised in local newspapers. It contains information on proposed budgets, tax rates and public hearings. **Forms 1, 2, 4-A and 4-B** must be completed before attempting to complete Form 3, as all information therein is taken from other forms.

Great care should be taken in completing **Form 3**. Once **Form 3** is advertised, the budget and tax levy may be decreased by the council, the Tax Adjustment Board, or the DLGF, but in most cases they cannot be increased. For that reason, it is important that the advertised amounts provide the unit with sufficient flexibility should information change between advertising time and final budget approval. For example, units should make sure that should assessed valuation figures change, the unit has advertised a levy sufficient to raise necessary revenues.

Form 3 must be advertised two times at least one week apart. The first publication must be at least 10 days before the public hearing on the budget (and no later than September 2), which must be at least 10 days before the meeting at which the budget is adopted.

The last days for the public hearing and the budget adoption meeting can be found in the Budget Calendar. Actual dates are the decision of the local legislative body.

### **Budgeting Hearing and Final Adoption**

After the advertisement of **Form 3**, the fiscal body (city or town council) must conduct a pre-adoption public hearing, as advertised, and a meeting for final adoption of the budget, also as advertised.

These hearings provide municipal officials with a chance to explain to the public the contents of the budget. Through the budget presentation, officials acknowledge their priorities for the next fiscal year, the revenues necessary to fund that budget and the source of those revenues. Officials can also explain to the public the revenue limitations which are imposed upon municipal government. The hearings give the public a chance to have input in the budget process.

IACT strongly suggests that municipal officials invite their state legislators to attend the budget hearings. It is important to educate your legislators on the budget process, the difficult decisions you must make in order to enact a budget and the fiscal constraints imposed by certain laws. Inviting their participation in the budget process can heighten their sensitivity to local government finance issues.

When the budget is adopted, by passage of the appropriation ordinance, copies are filed with the county auditor, in accordance with the Budget Calendar. If the county has a Tax Adjustment Board, the Board meets to determine whether budgets are within the levy limits allowed by law. The Tax Adjustment Board takes whatever action deemed necessary and sends the budget on to the DLGF. If there is not a local Tax Adjustment Board, the budgets go directly to the DLGF.

During the months of November and December, the DLGF will conduct field hearings on local government budgets. The hearings are usually conducted in the county courthouse. Municipal officials are required to attend

the budget field hearing for their unit. The budget field representatives will not review budgets during the public hearings. The hearings are an opportunity for taxpayer input. Upon conclusion of the hearings, field representatives will meet at regional sites throughout the State to conduct budget reviews.

During the review process, the hearing officer may make adjustments to the budget due to better revenue estimates, later expenditure estimates, statutory property tax controls, changes in assessed valuation, or other necessary adjustments. Keep in mind, in most cases, the DLGF's hearing officer may only adjust the tax levy down from the amount advertised; the hearing officer may not increase the figures above the advertised amount. The hearing officer also determines whether the budget was properly advertised and hearings were held in accordance with the law.

It is important for local officials to come to the field hearings prepared. Officials should bring documentation for numbers contained in the budget forms. If it is anticipated that the hearing officer will order a budget reduction, officials should be able to make recommendation as to cuts. Indiana Code (6-1.1-17-16 Version C) gives officials ten (10) days to make those cuts.

The field hearing officer's recommendations are forwarded to the DLGF for final action. By statute, the DLGF is required to certify rates and levies by February 15.

## **Supplement 1: Local Option Income Taxes (HEA 1001-2008)**

To help offset the impacts from the circuit breaker caps, the General Assembly retained the Local Option Income Tax (LOIT) provisions that were originally adopted in 2007 in HEA 1478. One of the troublesome points for IACT members about the LOIT adoption provisions are that in most counties, city and town officials have no authority to adopt a LOIT. In counties with the County Adjustment Gross Income Tax (CAGIT), the county council is the adopting body for the LOIT. In counties with the County Option Income Tax (COIT), the COIT council (which may have some or in a few cases a majority municipal representation) is the adopting body for the LOIT. Adoption of LOITs can only occur between April 1 and July 31.

Under the provisions of HEA 1478-2007, there were three LOIT Options — A, B, and C. These options remained the same under HEA 1001-2008. Option A permits the levying of up to a 1% LOIT to pay for budget increases instead of increasing levies by the allowable growth quotient. Option B permits the levying of up to a 1% LOIT to provide dollar for dollar property tax relief. Option C permits up to a .25% LOIT for public safety costs. Previously, Option A and Option B both had to be adopted before Option C could be adopted. HEA 1001, however, permits *either* Option A or Option B or both to be adopted at a minimum of .25% before a county council or COIT council may adopt Option C.

County councils or COIT councils will be required to make annual decisions as to whether to increase the LOITs or increase levies. In addition, LOIT allocation or reallocation can be determined by county councils or COIT councils — relief can be adjusted among homesteads, residential property or broad based property tax relief. Political subdivisions are also permitted to pool LOIT dollars for public safety in order to pursue a single project [Sections 332 and 342; IC 6-3.5-1.1-25 and IC 6-3.5-6-31].

## **Supplement 2: Property Tax Caps (Circuit Breaker)**

The term "circuit breaker" refers to caps on property taxes. The concept is much like an electrical circuit that trips when it is overloaded. When property taxes reach a certain amount, further taxation would be an overload on the taxpayer, so property taxes are capped at a certain amount and the taxpayer is not required to pay beyond the capped amount. The taxpayer receives a credit for the amount of property taxes due beyond the cap and these credits must be funded out of local governments' budgets.

In 2011 under HEA 1001-2008, the owner of a homestead will pay no more than 1% in property taxes based on his or her home's gross assessed value. (Gross assessed value is the dollar value assigned to property by the local assessor. It does not include exemptions and deductions and excludes business inventories.) For agricultural, other residential rental properties, or long-term care properties, a taxpayer will pay no more than 2% of the property's gross assessed value. For all other types of real and personal property, such as business property, property taxes will be capped at 3% of the property's gross assessed value. Circuit breaker caps apply to all units of local government, including special taxing districts, and to school corporations.

### **How is this credit funded?**

- Credits must be funded by all local taxing units (except school tuition support funds) from other revenues, fund balances or budget reductions, in proportion to their levy.
- Taxing units *may* not increase property taxes or borrow funds to offset any shortfall in revenues.
- DLGF has taken the position that each taxing unit must first set aside sufficient property tax collections to pay debt service before using property tax receipts to fund costs of government services.

## **Supplement 2: Property Tax Caps (Circuit Breaker) cont...**

### **Distressed Unit Appeal Board**

The Distressed Unit Appeal Board was enacted in the 2007 session under HEA 1478 (previously named the Circuit Breaker Relief Board) [Section 201; 6-1.1-20.3-1]. HEA 1001 changes the make-up of this board. Under HEA 1001, any individual political subdivision that expects to have at least a 5% reduction in property tax collections as a result of the application of the circuit breaker may appeal to the board for relief [Section 202 IC 6-1.1-20.3-2]. The board may grant relief by: (1) increasing the percentage thresholds at which the circuit breaker applies to a person's property tax liability in the political subdivision (in essence, raising the circuit breaker cap amounts); (2) provide for percentage reductions to taxpayer credits, otherwise provided in the political subdivision; (3) provide that some or all of the taxes payable to bonds, leases or other obligations are not included in the circuit breaker calculations. The Board may grant relief if the governing body of each political subdivisions in the county that is affected by the financial plan has adopted a resolution agreeing to the terms of the financial plan.

The Distressed Unit Appeal Board is a statewide nine-member board that consists of the Director of the Office of Management and Budget, the Commissioner of the Department of Local Government Finance (DLGF), the Commissioner of the Department of Revenue, the DLGF State Examiner, one member appointed by the Speaker of the House, one non-elected gubernatorial appointed member, and three additional gubernatorial appointed members who are nominated by the Indiana Association of Cities and Towns, the Association of Indiana Counties, and the Indiana Superintendents' Association [Section IC 6-1.1-20.3-4].

A political subdivision may appeal to the Indiana Tax Court for judicial review of a Distressed Unit Appeal Board decision. Such petition for review must be filed with the tax court within 45 days after the Board makes its final decision [Section 209; IC 6-1.1-20.3- 10]. The Tax Court is required to adopt rules and procedures under which proceedings are heard and decided [Section 210; IC 6-1.1-20.3-11]. The Tax Court can grant relief if the political subdivision has been prejudiced by an action of the Board [Section 211; IC 6-1.1-20.3-12].

## **Supplement 3: First, Second and Third Class City Budget Calendar**

The annual compensation for all members and employees of the police departments and fire departments of second and third class cities must be fixed by ordinance of the legislative body not later than **September 30, 2010** (IC 36-8-3-3).

The salary ordinance setting compensation of all other appointed officers and employees must be passed no later than **September 30, 2010** (IC 36-4-7-3).

The elected city officers' annual compensation must be fixed by ordinance of the legislative body by **December 31, 2010**. This ordinance **does not** have to be published under IC 5-3-1. HB 1230-2009 **eliminated** the requirement for publication of elected officials' compensation [Section 9].

The last day for final adoption of budgets by officers of all classes of cities is **November 1, 2010**. The pre-adoption hearing must still be held but can be scheduled anytime between the introduction of the budget and the adoption of the budget. However, all cities are still required to give two notices. The first notice must be published 10 days before the pre-adoption hearing. The second notice must be published seven (7) days after the first publication notice and three (3) days prior to the meeting.

Ten or more taxpayers may object to a budget, tax rate or tax levy of a political subdivision by filing an objection petition with the proper officers of the political subdivision not more than seven days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate and tax levy to which the taxpayers object. If a petition is filed, the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

Each year at least two (2) days before the first meeting of the County Board of Tax Adjustment, a political subdivision shall file with the county auditor the following:

- A statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;
- Two copies of the budget adopted by the political subdivision for the ensuing budget year; and
- Two copies of any findings concerning the objections filed by taxpayers.

The County Tax Adjustment Board will meet the first Wednesday after the city files the adopted budget.

The last day for written appeals for excessive levies, pursuant to IC 6-1.1-18.5-13, to be filed with the DLGF is **October 19, 2010**. These are appeals from the levy limitations of IC 6-1.1-18.5-13 and are not to be confused with appeals from the actions of the County Tax Adjustment Board.

Ten or more taxpayers may initiate an appeal from the county board of tax adjustment's action on a political subdivision's budget by filing a statement of their objections with the county auditor. The statement must be filed *not later than* 10 days after the public hearing notice. The statement shall specifically identify the provisions of the budget and tax levy to which the taxpayers object. The county auditor shall forward the statement, with the budget, to the DLGF.

Not later than 10 days after the auditor publishes the notice of taxes and levies, 10 or more taxpayers may appeal to the DLGF from final determination of the County Tax Adjustment Board action, by filing objections with the County Auditor, who forwards same to the DLGF (IC 6-1.1-17-13). Any city may make a similar appeal to restore the city's rate or tax levy as originally fixed by the municipality, if same had been reduced by the County Board. These appeals are not for excessive levies.

Taxpayers may not initiate an appeal from the action of the Tax Adjustment Board if less than 75% of the taxpayers filing the appeal objected to the budget within seven days of the taxing unit's public hearing.

The DLGF's field hearings on budgets and preliminary hearings on excessive levy appeals will be held October through December.

By **February 15, 2011**, the DLGF should certify the final rates and levies as required.

## **Supplement 4: Appeals**

There are two types of property tax appeals in the local government budget process:

1. Appeals from actions of the County Tax Adjustment Board. These are not a levy increase exceeding the levy limitations of IC 6-1.1-18.5-13. These appeals are filed with the county auditor for transmittal to the DLGF and commonly concern a reduction in a certain budget item made by the County Tax Adjustment Board. Appeals of this nature must be filed with the auditor within 10 days after the Tax Adjustment Board publishes the rates and levies. The filing period usually does not occur until after **November 28, 2010** (see budget calendar).
  
2. Appeals for excessive levies under IC 6-1.1-18.5-13. These are appeals asking that more property tax be levied than is allowable under the maximum levy. Petitions for relief from the levy limitations imposed by IC 6-1.1-18.5-13 must be filed with the DLGF before **October 19, 2010**. The petition must state:
  - a. The governmental function or responsibility for which relief is necessary;
  - b. That without relief the function or responsibility may not be performed; and
  - c. A reasonably detailed statement of facts supporting the claim that the function or responsibility cannot be performed without relief from levy limitations of IC 6-1.1-18.5-3.

For either type of appeal, the provisions of IC 6-1.1-17-15 apply. This statute requires that the city or town council authorize the appeal by adopting a resolution. This resolution must be attached to the appeal petition. The petition must be signed by the mayor and council president in the case of a city or the town council president in the case of a town. The petition for relief and authorizing resolution must be received by the Department of Local Government Finance, Indiana Government Center North, Room N-1058, Indianapolis, IN 46204, before **October 19, 2010**. More information can be obtained from the DLGF website at:

[http://www.in.gov/dlhf/files/2010\\_Appeal\\_Worksheets\\_Report\\_of\\_Appealing\\_Taxing\\_Unit\\_.pdf](http://www.in.gov/dlhf/files/2010_Appeal_Worksheets_Report_of_Appealing_Taxing_Unit_.pdf)

The DLGF has indicated that some units of government miss the appeals filing deadlines for excessive levies because they believe that these appeals are to be filed after the field hearings. This is not the case. The budget calendar should be consulted for the correct filing dates.

Also, budgets are disallowed each year because of improper advertising or because the final adoption does not take place on or before the required date. Failure to conduct a public hearing before final adoption will result in the budget being disallowed. City and town fiscal officers should consult the budget calendar and follow it precisely.

### **Grounds for excessive levy appeals:**

1. Excess levy for annexation, consolidation or other extensions of governmental services.
2. Needs due to growth that exceeds the statewide average growth quotient by at least 3%.
3. Shortfall due to erroneous assessed value or for correction of math errors.
4. Shortfall levy appeal.
5. Appeal for lack of adequate funds to carryout functions. This appeal requires a natural disaster, an accident or an unanticipated emergency for a municipality to qualify.
6. Use of operating balance to reduce levy

Cities and towns petitioning for relief should be prepared to support their appeals with documentation or other evidence that the relief is needed. This evidence will be received at a hearing of the Local Government Tax Control Board which takes place in Indianapolis. Municipalities will be notified of the time and date of the hearing after they have filed their petitions.

## **Supplement 5: Cumulative Capital Development Fund**

Cities and towns may establish Cumulative Capital Development Funds (CCDF) outside the property tax controls. The CCDFs are subject to strict rate limits, but can be used for nearly any capital project.

To establish a fund, the DLGF must receive the CCDF ordinance by **August 1, 2010**, as established in IC 6-1.1-17-16.7. **Do not miss this date!**

The original legislation required the funds to be established for no more than a three-year period and required their re-establishment after that time. In 1995, the three-year limitation was eliminated.

CCDFs currently in place will continue as long as they are advertised and adopted in the budget, unless the municipality decides to rescind the fund. Otherwise, the fund will continue even if the original ordinance specified an expiration date.

A municipality may, by ordinance, reduce the tax rate of the fund. If a municipality wishes to change the purposes for which the fund was established, it must follow the same steps as followed in originally establishing the fund (except the rate may remain at the "third year" level).

The process to re-establish a CCDF is identical to the process used to initially establish the fund with one exception. A CCDF that is re-established without a lapse is not subject to the phase-in requirements for the rate. The rate ceiling can continue at the highest rate allowed by law.

The enabling ordinance (either to establish or re-establish the fund) must specify the purpose of the fund. The purpose can be any purpose for which the city or town could establish another cumulative fund. A list of cumulative funds for cities and towns is provided in this bulletin. The ordinance must also establish the maximum rate.

For municipalities which have had a CCDF for three consecutive years or more, the maximum rate cannot exceed five cents per \$100 dollars of assessed valuation if the municipality is in a county that has adopted either CAGIT or COTT. For municipalities located in a non-adopting county, the rate cannot exceed four cents per \$100 dollars of assessed valuation.

If a municipality is establishing a CCDF for the first time, the maximum rate must be phased in over a three-year period. The rates method above must be phased in three equal increments. For example, for a city in a non-adopting county, the maximum rates would be .0133, .0267 and .0400 respectively in years 1, 2 and 3.

**Note:** The DLGF is required to adjust cumulative fund rates after a reassessment to prevent any "windfall" which could result from increased assessed valuation attributable solely to the reassessment.

In the 2002 special session, legislation was enacted that expands the definition of the interstate commerce exemption for manufacturer's finished goods that are destined for out-of-state. Also, it allowed counties, at their option, to exempt 100% of the assessed value of inventory. These two changes, in turn, reduce the amount of revenue raised under cumulative development funds.

SEA 464-2003 requires the DLGF to adjust the maximum cumulative fund tax rates to account for these two assessed value reductions. The first adjustment would be for the assessed value lost due to the expansion of the interstate commerce exemption effective with taxes paid in CY 2004. The second adjustment would be made either in the year that a county adopts the 100% inventory deduction or in 2007, when the statewide deduction takes effect. The unit would then be able to generate the same levy with the adjusted maximum rate as it did under the old maximum rate with the old assessed value base.

### **Indiana Code Citations for Cumulative Capital Development Funds**

IC 36-9-15.5	Cumulative Capital Development Fund
IC 8-16-3	Cumulative Bridge Fund
IC 8-22-3-25	Cumulative Building Fund — Airports
IC 13-2-31-26	Cumulative Building Fund — Levees
IC 13-3-3-89	Cumulative Maintenance Fund — Channel Improvements
IC 16-12.2-5-32	Cumulative Hospital Building Fund
IC 36-8-14	Cumulative Firefighting Building, Equipment, Police Radio Fund
IC 36-9-4-48	Cumulative Transportation Fund — Buses
IC 36-9-16-2	Cumulative Building Funds
IC 36-9-16-3	Cumulative Capital Improvement Fund
IC 36-9-16.5	Cumulative Street Fund
IC 36-9-17	General Improvement Fund
IC 36-9-26	Cumulative Building Fund — Sewers
IC 36-9-27-100	Cumulative Drainage Fund
IC 36-10-3-21	Cumulative Building Fund — Parks
IC 36-10-4-36	Cumulative Sinking and Building Fund — Parks

### **Process to establish/re-establish a CCDF**

1. Notice of the proposed ordinance and of the public hearing to adopt the ordinance must be given in accordance with IC 5-3-1. This requires the municipality to publish notice two times, at least one week apart, with the last notice being at least three (3) days before the public hearing.
2. A public hearing must be conducted to adopt the ordinance.
3. If adopted, the ordinance is submitted to the county auditor and the DLGF. Note: Municipal officials may want to confirm receipt by the DLGF so that corrective action can be taken if the ordinance is not received.
4. The DLGF will require that notice of submission be published and provide the form of notice for publication.
5. Fifty or more taxpayers have 30 days to file petition objecting to tax levy with county auditor.
6. Petition is certified by county auditor and submitted to the DLGF, which schedules a hearing.
7. Following the hearing, the DLGF will approve, disapprove or modify the ordinance.
8. **THIS FUND MUST BE INCLUDED IN THE ADVERTISED BUDGET.**

## Sample Ordinance to Establish a Cumulative Capital Development Fund

WHEREAS, IC 36-9-15-5 allows municipalities to establish a Cumulative Capital Development Fund; and

WHEREAS, the (city or town) of (city/town name) find that such a fund is necessary and prudent for the financial well being of the municipality;

NOW THEREFORE, BE IT ORDAINED BY THE (City Council/Town Council) of (city/town name).

SECTION 1. That there is hereby established the (city/town name) Cumulative Capital Development Fund.

SECTION 2. That an ad valorem property tax levy will be imposed and the revenues from the levy will be retained in the (city/town name) Cumulative Capital Development Fund.

SECTION 3. That the maximum rate of levy under SECTION 2 will not exceed:

- a. (.0133/.0167) per \$100 Assessed Valuation for 2008
- b. (.0267/.0333) per \$100 Assessed Valuation for 2009
- c. (.0400/.0500) per \$100 Assessed Valuation for 2010 and thereafter.

*NOIE: Select the rate which applies (municipalities in CAGIT / COIT counties may use the higher figures).*

SECTION 4. That the (city/town name) Cumulative Capital Development Fund is established until such time as the fund is rescinded.

SECTION 5. That the funds accumulated in the (city/town name) Cumulative Capital Development Fund will be used for (\*\*Note below).

SECTION 6. Notwithstanding SECTION 5, funds accumulated in the (city/town name) Cumulative Capital Development Fund may be spent for purposes other than the purposes stated in Section 5, if the purpose is to protect the public health, welfare, or safety in an emergency situation which demands immediate action. Money may be spent under the authority of this section only after the (Mayor/Town Council President) issues a declaration that the public health, welfare or safety is in immediate danger that requires the expenditure of money in the fund.

SECTION 7. This fund takes effect upon approval of the DLGF.

*Note: Insert specific reference to cumulative fund statute(s) for which the municipality wishes to use CCD fund. Include a reference to the general title or use the fund is intended.*

*Example 1: For capital improvements as described in IC 36-9-16-2 or 36-9-16-3.*

*Example 2: For the improvement of public ways and sidewalks as described in IC 36-9-16.5-2.*

## **Supplement 6: Salary Ordinances**

There are three statutes that deal with salary setting for officers and employees of cities. The first statute, IC 36-4-7-2, covers elected city officials. The city council must pass an ordinance no later **than December 31, 2010**, fixing the salaries of **elected officials** for the following year. Effective this year, this ordinance **is not** required to be published in accordance with IC 5-3-1. Salaries of elected officials cannot be changed in the year for which they are fixed and cannot be lowered beyond the amount set the previous year.

The second statute, IC 36-4-7-3, applies to appointed officers and employees **except** members of the police and fire department and requires that any ordinance to establish salaries must be passed before **September 30, 2010**, for second and third class cities. Compensation set under this statute may not be increased during the budget year for which it is fixed but may be reduced by the mayor.

The third statute, IC 36-8-3-3, applies to members of the police and fire departments and requires that the ordinance establishing these salaries be set by **September 30, 2010**, for second and third class cities. If the city council fails to adopt the ordinance, the Safety Board may fix compensation, subject to later change by ordinance. Unlike IC 36-4-7-3, the statute affecting public safety employees does not expressly restrict salary increases during the budget year.

It is not necessary to have three separate salary ordinances if all the specific requirements of each statute are met.

### **Town**

IC 36-5-3-2 provides for setting salaries for elected town officials and for town employees. There is no deadline for passage and the only requirements are that the salaries of elected officers may not be changed in the year for which they are fixed, nor may they be reduced below the amount fixed for the previous year. There are no publication requirements for elected town official or town employee salaries. It is recommended but not required to pass the salary ordinance with your budget. It should be passed no later than **December 31, 2010**.

In towns with a Metropolitan Police Commission, IC 36-8-9-4 provides that the Police Commission may recommend, but the town council shall determine, the compensation to be paid to members of the police department.

### **Fringe Benefits**

Municipalities that provide paid leave such as sick leave, vacations, etc. to employees and officials should include these policies in the salary ordinance if they have not been established in some other ordinance. In addition to setting the amount of accumulation, the ordinance should also describe how accumulated leave time is to be handled upon termination.

**Note:** Both cities and towns may provide for additional compensation for municipal officials (both elected and appointed) for duties in connection with a municipally owned utility or function. The additional compensation is set by the board or commission operating the utility or function, subject to the approval of the executive and legislative body.

## **Supplement 7: County Economic Development Income Tax**

The County Economic Development Income Tax (CEDIT) was created in 1987 by the Indiana General Assembly as the third local option income tax. CEDIT differs from the first two income taxes, CAGIT and COIT, in several respects, including:

- The relationship with other taxes;
- The distribution of the revenues; and
- The purposes for which it can be used.

Currently, seventy five (75) counties have adopted CEDIT.

CEDIT can be adopted by any county, including counties which have COIT and CAGIT. There are several rates from which to choose, ranging from 0.1 to 0.5 percent. In counties which have another local option income tax, the sum of the rates of both taxes cannot exceed 1.25 percent (CAGIT) or 1.00 percent (COIT).

If adopted in a county, CEDIT is imposed on the same tax base and in the same time period as the other local income taxes. The revenues, however, are distributed only to cities, towns and the county unit, not to other taxing units. CEDIT revenues *were originally* allowed to be spent by the recipient governments for economic development projects or for capital improvement projects only. For the latter use, the municipality is still required to adopt a capital improvements plan. The statute was later amended to include operating expenses of economic development organizations as an eligible use of CEDIT revenues. Finally, effective July 1, 2005, SEA 100-2005 allows CEDIT **to be used for any governmental or lawful purpose** (IC 6-3.5-7-13.1).

The county council is the adopting body in an existing CAGIT county and the COIT Council performs the role in a COIT county. If neither CAGIT nor COIT have been adopted in a county, then either council may adopt CEDIT.

## **Supplement 8: State Distributed Revenues**

### **State Liquor Excise Tax**

This distribution comes from the sale and renewal of liquor licenses. This revenue is not included in any estimate from the DLGF or the State Auditor's Office. According to the Alcoholic Beverage Commission, the available license quota is filled in 99% of areas that are inside city limits. This means that a municipality's revenue from state liquor excise tax will more than likely not increase.

Cities and towns should look at the last three to five years of state liquor excise tax revenues to determine the increase or decrease for your community and budget accordingly. As a fiscal officer, another approach would be to conservatively budget 90% of what was received in 2010 for your 2011 revenue estimate.

- The 2011 budget amount should be entered on line 1501, Column B of City and Town Budget **Form 2** — Estimate of Miscellaneous Revenue. This number may be the same amount budgeted in 2010..
- In Column A, enter the amount received for the last half of 2009.

### **Alcohol Gallonage Tax**

A state excise tax is imposed on every gallon of alcoholic beverage sold (IC 7.1-4) and the amount set aside for cities and towns is distributed on a per capita basis.

- The Alcohol Gallonage Tax distribution for the 2011 budget year (January 1, 2010 to December 31, 2010) is estimated to be 2.00 per person based on the 2000 census data. Once this amount is determined, the amount should be entered on Line 1502, Column B of City and Town Budget **Form 2**-Estimate of Miscellaneous Revenue, for every fund the unit uses — typically, it is the General Fund.
- The amount to be entered into Column A, of the same line can be determined by multiplying the unit's 2000 population by 1.02.

### **Cigarette Tax**

The amount distributed to cities and towns is dedicated partly (3/14ths) to the municipalities' general fund and partly (11/14ths) to their Cumulative Capital Improvement Funds (CCIF). Note: Pursuant to IC 6-7-31.1(b) the amount deposited in the CCIF may be transferred to the General Fund at anytime after receipt.

The cigarette tax distribution for the 2011 city or town General Fund is estimated to be .72 per capita. The estimate for the city or town Cumulative Capital Improvement Fund (CCIF) is 2.63 per capita.

The General Fund amount is determined by multiplying the unit's 2000 population by .72. This amount should be entered on line 1503, Column B of City and Town Budget **Form 2** — Estimate of Miscellaneous Revenue for the unit's General Fund. The amount to be entered into Column A of the same line can be determined by multiplying the unit's 2000 population by .39.

The CCIF amount is determined by multiplying the unit's 2000 population by 2.63. This amount should be

entered on line 1504, Column B of City and Town Budget **Form 2** — Estimate of Miscellaneous Revenue for the unit's CCIF. The amount to be entered into Column A of the same line can be determined by multiplying the unit's 2000 population by 1.43.

## **Gasoline Tax**

Motor Vehicle Highway Fund (MVH): To project the second half of 2009 and 2010 MVH revenues, cities and towns should consult the chart on page 8.

Local Roads and Streets (LRS): To project the second half of 2009 and 2010 LRS revenues, cities and towns should consult the chart on page 8.

## **Gaming Revenue Sharing**

Before August 15, 2010, the State Treasurer shall distribute the \$33 million of wagering taxes set aside for revenue sharing to the County Treasurer of each county that does not have a riverboat. Money will be distributed using the ratio that the county's population compares to the total population from all counties that do not have a riverboat. The County Auditor distributes the money to cities and towns based on relative population. Municipalities will receive the same distribution amount in 2011 as received in prior years. Money received may be used to:

- Reduce the property tax levy of the city, town or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city or town);
- Deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, or IC 36-7-30 to provide funding for additional credits for property tax replacement in property tax increment allocation areas or debt repayment;
- Fund sewer and water projects, including storm water management projects;
- Fund police and fire pensions; or
- Carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town or county. Money used for this purpose does not reduce the property tax levy of the city, town or county for a particular year or reduce the maximum levy of the city, town or county under IC 6-1.1-18.5.

## **Supplement 9: Police Officer and Firefighter Pension Funds**

The intention of the Police Officer and Firefighter Pension Funds supplement is to provide an understanding of current police and fire pension issues. With the changes to state laws regarding pensions in recent years, the Association presents this information as a Supplement to its annual *Cities and Towns Budget Bulletin*.

Included in this publication you will find:

- Statutes for police officers' and firefighters' pensions
- Description of New System (1977 fund) and Old Systems (1925, 1937, and 1953 funds)
- Funding the Pre-1977 police and fire pension funds
- Worksheets for estimating DROP benefits for vested members

**Note:** This information applies to every city in the state with the exception of Bicknell, Greendale, Ligonier and Oakland City. This information applies to the following towns: Bremen, Brownsburg, Chesterton, Clarksville, Dyer, Griffith, Highland, Lowell, Merrillville, Munster, Plainfield, St. John, Schererville, Sellersburg and Speedway.

### **Police and Fire Pension Funds**

Two sets of pension funds administer police officer and firefighter pensions. Those hired after April 30, 1977, are members of the 1977 Police Officers' and Firefighters' Pension and Disability Fund (the 1977 Fund) under IC 36-8-8. Local units of governments send employer and employee contributions to the Public Employees' Retirement Fund (PERF) for investment and payment of retirement benefits for 1977 Fund members.

Those hired prior to May 1, 1977, are members of one of three pre-1977 Funds. These retirees receive a check from the local unit's fiscal officer from a Trust and Agency Fund numbered 702 (Fire) and/or 703 (Police) per the State Board of Accounts Manual or listed as code items numbered 0341 (Firemen's Pension Fund) and 0342 (Police Pension Fund) on the Cities and Towns Annual Report (CTAR) form.

#### **New System (1977 Fund) — CONTRIBUTION RATE STAYS AT 19.5%**

Cities and towns must budget **19.5%** of the base salary of a first class patrol officer or firefighter to pay for the employer's share of retirement benefits under the 1977 Fund. Police officers and firefighters must pay **6%** under the 1977 Fund. These contributions are paid quarterly to PERF, which administers the 1977 Fund.

#### **Old System (1925, 1937, and 1953 Funds)**

Police officers and firefighters hired before May 1, 1977, are members of the "Old System" pension plans. These pensions were funded with a pay-as-you-go method, and became under-funded over time (often referred to as the "old funds pension liability" problem). Pension reform legislation was enacted in 1977 to combat the growing unfunded liability in these plans.

A city or town can budget for payments to the old pension plans by estimating total old plan police and fire pension costs for the calendar year, taking into account new retirees, death benefits, survivor benefits and the administrative costs of these funds.

### **Funding for Old System**

HEA 1001-2008 changed the funding for police and fire pension funds beginning January 1, 2009. The state assumed **100%** of the total amount of pension, disability, and survivor benefit payments from the 1925 police pension fund (IC 36-8-6), the 1937 firefighters' pension fund (IC 36-8-7), and the 1953 police pension fund (IC 36-8-7.5). The state subtracted any distributions to the unit from the public deposit insurance fund (PDIF) that continued to be used for benefit payments and provide the funds for the remaining amount. Therefore, a city or town with police and fire pension obligations likely has two revenue sources:

- 1) State Pension Relief and
- 2) PDIF deposits

In the past, pre 1977 fund member benefits were paid from a combination of employer contributions, such as property taxes, local distribution of state collected taxes (COIT, CAGIT, cigarette, alcohol, and financial institutions taxes), employee contributions (deductions from wages) and state assistance (pension relief payments from the state Pension Relief Fund).

### **Allowable Uses of Pre 1977 Police and Fire Pension Fund Cash Balances**

Many municipalities with Police and Fire pension funds had cash balances that had limited allowable uses as of January 1, 2009. This is when the State assumed 100% of the member benefits. HEA 1001(ss) clarifies the allowable uses of a city or town's police and/or fire pension fund cash balance. A local board may authorize the use of money in the funds to pay any or all of the following:

- (1) Administrative costs of the police and fire pension funds.
  - Pension Secretary salary
  - Other supplies or contractual expenses to administer the funds
- (2) The costs of health insurance or other health benefits provided to members, survivors, and beneficiaries of the 1925 fund. This is an expense that the State did not assume.
- (3) The municipality's employer contributions under IC 36-8-8-6. This is the employer's contribution of 19.5% percent that is usually paid from the municipality's General Fund.
  - Sec. 6. (a) Each employer shall annually on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, pay into the 1977 fund an amount determined by the PERF board:
    - (1) for administration expenses; and
    - (2) sufficient to maintain level cost funding during the period of employment on an actuarial basis for members hired after April 30, 1977.
- (4) The contributions paid by the municipality for a member under IC 36-8-8-8(a).
  - Each fund member shall contribute during the period of the fund member's employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member.

The maximum amount that may be used to pay for the above allowable expenditures follows:

- (1) the unencumbered balance in the police and/or fire pension fund(s) on December 31, 2008; plus
- (2) the amount of property taxes:
  - (A) imposed for an assessment date before January 16, 2008, for the benefit of the fund; and
  - (B) deposited into the fund after December 31, 2008.

## **Review of 2009 maximum levy reduction due to State assumption of benefit payments**

According to HEA 1001-2008 for property taxes first due and payable after December 31, 2008 (e.g., pay-2009 and thereafter), the DLGF should have reduced the maximum permissible ad valorem property tax levy of any civil taxing unit and special service district by the amount of the payment made in 2009 by the state of Indiana under IC 5-10.3-11, as amended by HEA 1001-2008, for benefits to members (and survivors and beneficiaries of members) of the 1925 police pension fund, the 1937 firefighters' fund or the 1953 police pension fund.

The DLGF interpreted that section to require a levy reduction exactly equal to the increase in the state distribution to cities and towns paid for the local share of police and fire pensions in HEA 1001-2008. For example, if a city was receiving \$25 from the state pension relief fund in 2008 (prior to HEA 1001-2008) and now will receive an additional \$75 from HEA 1001-2008 in 2009 for a total of \$100 in state relief, the city's 2009 maximum levy should have been reduced by \$75. Thus, the maximum levy reduction only relates to the additional relief amount added in HEA 1001-2008.

### **State Relief**

HEA 1001-2008 funds 100% of the Old System pension obligations beginning January 1, 2009. Prior to this legislation the General Assembly enacted SEA 260-2001, which guaranteed that the Pension Relief Fund would fund a minimum of 50% of Old System pension obligations.

Indiana Code 5-10.3-11-4 still stipulates that local units must certify to PERF before April 1 of each year the following:

- 1) Amount of benefits paid during the preceding year;
- 2) names of all police officers and firefighters, active, retired, and deceased who are members of the old pension funds and are eligible to receive benefits; and
- 3) Other information necessary to perform an actuarial valuation of each unit's pension funds

A city's or town's distribution for that year can be withheld if this information is not submitted by April 1. Because of the way the Pension Relief Fund formulas work, PERF cannot start calculating each city or town's distribution until all information is complete. The statute calls for PERF to estimate by July 1 the total pension payments to be made to all cities and towns for that calendar year. PERF cannot accurately produce that estimate without the local unit's data.

## **State Public Deposit Insurance Fund (PDIF) Interest Distributions**

The interest earned on the Public Deposit Insurance Fund (PDIF) is distributed to cities and towns for Old System pension obligations. These monies are in addition to the Pension Relief Fund distributions (100% guarantee provided in HEA 1001-2008). The PDIF distributions are made to cities and towns in proportion to payments made by each unit for Old System benefits. This payment will come directly from the State Treasurer's office and, when received, should be treated as miscellaneous revenue for the old Police or Fire Pension Fund(s). The distributions began in 2002 and the payment schedule will be repeated through 2022. PDIF distributions may be deposited into PERF sub-accounts (see next section).

## **PERF Sub-Accounts**

PERF maintains separate sub-accounts for some units of local government. There are still some municipalities with balances in their police and fire sub-accounts. These accounts are separate and distinct within PERF and the Pension Relief Fund. A unit of local government may make deposits at any time to this separate account. Municipalities have the option of leaving it in the account or withdrawing all or part of the remaining balance once annually to pay pension benefits under the Old System.

## **DROP Benefits**

DROP stands for Deferred Retirement Option Plan for 1925, 1937, 1953 and 1977 Fund members. DROP gives eligible members an additional benefit option. It allows members to simultaneously earn a salary and accumulate a lump sum during the DROP period rather than additional years of service. A member participating in the DROP must still retire by the applicable municipality's mandatory retirement age and may make only one DROP election in his or her lifetime. The member must be in the DROP for at least one year and the maximum DROP period is three years. Members who elect to participate must retire on their DROP retirement date in order to elect the DROP benefit. The required employee contributions continue while the member participates in the DROP and for 1977 Fund members, the employer contributions also continue.

The options available at retirement from the DROP are:

- 1) A monthly pension that is based on service and salary in effect when the member entered the DROP, plus a lump sum or three annual installment payments of the amount that "accrued" while the member was in the DROP; or
- 2) A monthly benefit that is determined based on service and salary in effect when the member retires from the DROP, with no lump sum/installment portion.

A member who elects to enter the DROP, but does not retire at the end of the DROP period, loses the opportunity to elect a lump sum/installment payment through the DROP. For death (either in the line of duty or not related to duty), benefits are determined based on the applicable pension fund as though the member never entered the DROP. For disability, legislation in 2007 (HEA 561) changed this mechanism to allow an option for the disabled member to receive his/her regular monthly benefits as if he/she had never been in DROP, or receive the DROP frozen benefit plus a lump sum equal to the frozen monthly benefit times the number of months the member was in the DROP. This affords the disabled member the same elections a retiring person has available under current law. The 50% pension relief guarantee applies to the DROP benefits. Portions of the lump sum payments not reimbursed by Pension Relief Fund distributions or payments from the Public Deposit Insurance Fund may be paid outside the controlled levy.

Contact IACT with questions regarding pensions at [acottongim@citiesandtowns.org](mailto:acottongim@citiesandtowns.org). You may also contact Willie Teamer at PERF, 143 West Market Street, Suite 400, Indianapolis, IN 46204 or (317) 234-5307/(888) 526-1687 Option #3. For more information, visit the PERF website at <http://www.in.gov/perf/2733.htm>.

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*The Indiana Association of Cities and Towns (IACT) is a coalition of municipal officials who seek to improve the quality of life in Indiana through effective government. With over 460 members, IACT' advocates for municipalities as the official voice of municipal government in Indiana, and promotes good government through education, training and leadership.*

**Indiana Association of Cities and Towns**  
200 South Meridian Street, Suite 340  
Indianapolis, IN 46225  
(317) 237-6200  
[www.citiesandtowns.org](http://www.citiesandtowns.org)