

SPECIAL DISTRICTS BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES
ISSUED BY STATE BOARD OF ACCOUNTS

JUNE 2018

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MEMORANDUMS ISSUED

Attached at the end of this document is the State Board of Accounts memorandum dated June 26, 2018 regarding the Court Costs and Fee Changes effective July 1, 2018.

Attached at the end of this document is the State Board of Accounts memorandum dated June 12, 2018 regarding the Monthly and Annual Engagement Uploads.

The attached memorandums are incorporated into this issue of the Cities and Towns Bulletin and considered part of the Uniform Compliance Guidelines issued by the State Board of Accounts.

2018 NEWLY ENACTED LEGISLATION

The following list of laws enacted by the General Assembly is related to special districts, cities, towns, and municipally-owned utilities. This is not intended to be an expression of a legal opinion nor is it intended to provide a complete summary of every addition or amendment contained in the public law. If you have any questions regarding legal interpretation, please consult your city or town attorney. We have listed the laws in public law order sequence and the applicable references to the Indiana Code.

Additional information regarding the 2018 public laws may be found on the General Assembly website at www.iga.in.gov. The "Session" tab contains a Table of Citations for all Indiana Code citations affected by new legislation, a complete Digest of Enactments summarizing each new public law, an Enrolled Act Summary showing the effective dates of each public law section, and other cross references between public law number and bill number. The "Legislation" tab contains each new public law.

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Public Law 37-2018 - HEA 1257 - State Use Program

Amends IC 5-22-13 effective July 1, 2018. Changes references of "person with a severe disability" to "individual with a disability" in the public purchasing laws and the laws concerning the committee for the purchase of products and services of individuals with a disability (committee). Defines "individual with a disability". Amends the definition of "qualified agency". Provides that a governmental body's purchasing agent must determine if a product or service is within 10% of the fair market price...

Public Law 66-2018 -HEA 1036 - Unemployment Insurance

Amends IC 22-4-4-2, IC 22-4-13.3-4, IC 22-4-13.3-8 effective July 1, 2108. Excludes worker's compensation and occupational diseases compensation payments from the definition of "wages" for unemployment insurance purposes. Establishes a flat fee of \$12 as the employer's collection fee for withholding amounts from an individual's income to repay unemployment insurance benefit overpayments. Allows an individual to request a review by the commissioner of the department of workforce development or the commissioner's designee of an adverse decision following an administrative hearing in which the individual contests the income withholding.

Public Law 72-2018 - HEA 1004 - Various State and Local Government Streamlining Matters

Amends various sections of in the Indiana Code, including IC 36-1-12, with various effective dates. Requires a meeting for receiving quotes must be open to the public. Provides that certain quotes shall be reported to the board during the public meeting at which the contract is considered. Specifies that an employee drug testing program must have been effective and applied at the time of the solicitation for bids for a public works project. Allows the board to keep on file a copy of the contractor's policy submitted in the current calendar year or previous two calendar years to satisfy the requirement for submitting a policy unless the policy has been revised...

IC 36-1-12-5. For public works projects costing less than \$50,000, "The board must proceed under the following provisions: (1) The board shall invite quotes from at least three (3) persons known to deal in the class of work proposed to be done by either of the following:

(A) Mailing them a notice stating that plans and specifications are on file in a specified office. The notice must be mailed not less than seven (7) days before the time fixed for receiving quotes. The board may not require a person to submit a quote before the meeting at which quotes are to be received. The meeting for receiving quotes must be open to the public. All quotes received shall be opened publicly and read aloud at the time and place designated and not before.

(B) Soliciting at least three (3) quotes by telephone, facsimile transmission, or electronic mail. The seven (7) day waiting period required by clause (A) does not apply to quotes solicited under this clause. A quote received under this clause shall be reported to the board during the public meeting at which the contract is considered. The name of each person submitting a quote, and the amount of each quote, shall be read aloud at the public meeting."

IC 36-1-12-24. For public works projects of at least \$150,000 awarded after June 30, 2016...

"(c) An employee drug testing program submitted to the board under this section must have been effective and applied at the time of the solicitation for bids.

(d) A contractor who has previously filed a copy of the contractor's employee drug testing program with the board in the current calendar year or within the previous two (2) calendar years satisfies the requirement for submitting an employee drug testing program, unless the employee drug testing program has been revised."

Public Law 86-2018 - Senate Enrolled Act (SEA) 6 - Technical Corrections

Makes technical corrections; Various Effective Dates. Resolves technical conflicts and addresses technical problems in the Indiana Code. Provides that the technical corrections bill may be referred to as the "technical corrections bill of the 2018 general assembly". Specifies that this phrase may be used in the lead-in line of each SECTION of another bill to identify the provisions added, amended, or repealed by the technical corrections bill that are also amended or repealed in another bill being considered during the 2018 legislative session. Provides the publisher of the Indiana Code with guidance concerning resolution of amend/repeal conflicts between the technical corrections bill and other bills passed during the 2018 legislative session. Specifies that if there is a conflict between a provision in the technical corrections bill and a provision being repealed in another bill, the other bill's repealer is law. (The introduced version of this bill was prepared by the code revision commission.)

Public Law 93-2018 - Senate Enrolled Act (SEA) 125 – Underground Utility Excavation

Adds IC 8-1-26.5, Registration of underground utility excavation contractors. Provides that a contractor that will perform one or more excavations or demolitions in Indiana under a contract with: (1) a communications service provider; or (2) a utility; must include in an entity filing filed with the secretary of state a statement that the contractor and its employees will comply with Indiana's 811 statute. Provides that a contractor that is a filing entity under the Uniform Business Organizations Code (Code) shall provide documentation of the contractor's compliance with the registration requirement to a communications service provider or a utility before entering into a contract with the communications service provider or the utility to perform excavations or demolitions in Indiana. Authorizes the utility regulatory commission (IURC) or its pipeline safety division to refer to the attorney general contractors that: (1) violate Indiana's 811 statute; and (2) are foreign entities not registered to do business in Indiana. Authorizes the attorney general to collect penalties of not more than \$10,000 for the registration violation, as provided for in the Code. Provides that at the request of the IURC or its pipeline safety division, and not more than once per year, unless for purposes of an investigation under Indiana's 811 statute, a communications service provider or utility shall provide a list of its contractors operating in Indiana. (The introduced version of this bill was prepared by the interim study committee on energy, utilities, and telecommunications.)

Public Law 117-2018 - HEA 1262 - Public Funds and Tax Refund Intercepts

Amends IC 5-13-9-5 and IC 5-13-9-11 effective July 1, 2018. Provides that certain restrictions requiring deposits of public funds to be made within the territorial limits of a political subdivision apply to funds invested in: (1) transaction accounts; and (2) certificates of deposit in a depository designated by the state board of finance but not by the local board of finance. Provides that an ordinance or resolution authorizing funds to be invested in such certificates of deposit expires not later than one year (rather than two years, under current law) after the ordinance or resolution is adopted. Revises the procedures involved when a political subdivision seeks a set off of a tax refund from the department of state revenue for debts owed to the political subdivision by a debtor. Repeals a provision pertaining to hearings with debtors on disputed debts that are owed to political subdivisions that use the tax refund set off process.

Public Law 126-2018 - SEA 362 - Regulation of Water and Wastewater Systems

Adds IC 8-1-1.9; Amends IC 13-11-2; Amends several chapters in IC 13-18 effective July 1, 2018. Eliminates conservancy districts and regional water or wastewater districts from the definition of "water or wastewater utility" for purposes of the chapter, making a water or wastewater utility organized as a legal entity after June 30, 2018, subject to the jurisdiction of the Indiana utility regulatory commission.

Provides that an applicant for a permit for the operation of a water treatment plant or wastewater treatment plant must submit to the department of environmental management (department), along with the permit application, a notarized certification that the applicant has prepared: (1) a life cycle cost-benefit analysis; (2) a capital asset management plan; and (3) a cyber security plan; and that the analysis and plans meet certain requirements. Requires an operator of a water treatment plant or a wastewater treatment plant to review and revise the plant operator's analysis and plans at least once every five years, for as long as the permit holder operates the water treatment plant or wastewater treatment plant.

Provides that a notarized certification of the plant operator's analysis and plans must be submitted to the department at least once every five years when the analysis and plans are reviewed and revised.

Public Law 138-2018 - HEA 1089 - St. Joseph River Basin Commission

Amends IC 14-8-2 and IC 14-30-3 effective July 1, 2018. Provides that the St. Joseph River Basin Commission includes the county surveyor of each participating county and a representative of each soil and water conservation district that includes territory in a county participating in the commission and territory in the river basin. Eliminates from the commission the member of a soil and water conservation district appointed by the governor. Repeals the commission's statutory quorum requirement.

Authorizes a political subdivision in a participating county to enter into a cooperative agreement with the commission and at least one other legal entity to authorize the commission to develop a plan to improve water quality or mitigate flooding. Requires the commission to schedule a public meeting concerning such a plan in each participating county containing a political subdivision that entered into the cooperative agreement with the commission for the development of the plan. Requires the commission, at least 10 days before a meeting concerning a proposed plan, to post a copy of the plan on the Internet and publish a meeting notice containing certain information. Requires the commission, in developing a plan, to determine the best method and manner of improving water quality or mitigating flooding, in view of certain considerations. Requires that a plan be approved by the state before it is implemented.

Authorizes the commission to: (1) develop plans and tools to mitigate flooding; (2) employ staff; (3) enter into contracts; (4) exercise the powers of a political subdivision specified in a cooperative agreement; (5) require that increased water runoff resulting from new construction be impounded on the construction site, but waive the impoundment requirement upon payment of a reasonable fee; (6) acquire conservation easements and acquire and remove improvements within the 100 year flood plains of the river basin; and (7) adopt rules restricting construction within the 100 year flood plains of the river basin.

Provides that the commission, the commission's executive board, or employees or authorized representatives of the commission may enter land within the 100 year flood plain of any watercourse in the river basin to investigate suspected violations of the flood control laws. Requires written notice to an owner of the affected land 21 days before an entry on the land, and requires the commission to hold a hearing on the necessity of the entry if an owner of the affected land appeals to the commission.

Public Law 164-2018 - SEA 266 - Motor Vehicle Safety

Amends several articles of Title 9 regarding Motor vehicle safety effective July 1, 2018. Requires that a license plate must be displayed in a horizontal and upright position that displays the registration expiration year in the upper right corner. Requires that a renewal sticker for a license plate must be securely affixed in the upper right corner of the license plate covering the previous registration expiration year.

Provides that a trailer of less than 3,000 pounds gross weight is not required to be equipped with brakes. Specifies that head lamps on motor vehicles, motorcycles, and motor driven cycles may display only white or amber light. Requires that motor vehicles except for motorcycles, motor vehicles manufactured before January 1, 1956, and motor driven cycles must be equipped with two stoplights.

Specifies that: (1) stop lamps on the rear of a vehicle must be red; and (2) signal lamps on the rear of a vehicle must display only red or amber light or any shade of color between red and amber. Specifies that signal lamps showing to the front of a vehicle must display only white or amber light or any shade of color between white and amber. Specifies that window treatments may not be applied below the AS-1 line.

Provides that the program established by the Indiana state police for the inspection of equipment for private buses applies only to private buses designed or used to transport 15 or more passengers (including the driver). Specifies that the provision in current law prohibiting the bureau of motor vehicles from registering a private bus unless the private bus has an unexpired certificate indicating compliance with the inspection program for private buses applies only to private buses that are designed or used to transport more than 15 passengers (including the driver).

Provides that exceeding an altered speed limit established by a local authority is a Class C infraction. Provides that exceeding a speed limit in a school zone is a Class B infraction. Provides that failing to maintain a minimum speed limit established by the department of transportation is a Class C infraction. Provides that exceeding an altered speed limit established by the department of transportation is a Class C infraction. Provides that a vehicle must be driven entirely within a marked lane.

Provides that a plain clothes law enforcement officer in an unmarked police vehicle may make an arrest for a violation of: (1) reckless driving causing endangerment; (2) recklessly passing a stopped school bus resulting in bodily injury; and (3) operating a vehicle while intoxicated in a manner that endangers a person.

Public Law 165-2018 - SEA 269 – Road and Utility Repair

Amends various articles in Title 8 and Title 13, including IC 13-26. Road and utility repair. Requires the department of transportation (department) to schedule an appeal of a local unit's denial of a petition to close a railroad crossing within 60 days after the denial of the petition. Defines "department action" as one or more of the following: (1) Detour creation or implementation. (2) Planned bridge repair. (3) Planned road repair. Requires the department to consider the following when determining when to let a contract involving certain construction, maintenance, and repair projects: (1) Impact on local commerce. (2) Impact on local residents. (3) Impact on local tourism. Requires the department to make a good faith effort to use: (1) the least disruptive timing when determining when to let a contract involving certain construction, maintenance, and repair projects; and (2) the least restrictive means when implementing or performing certain construction, maintenance, and repair projects. Requires the department to release a contract let list: (1) every 180 days; and (2) to at least 1 news media entity. Provides that the hearing officer appointed to conduct a hearing concerning a petition to establish a regional water, sewage, or solid waste district is required to provide notice of the hearing to the executive of a city or town that has a municipal sewage works or public sanitation department having extraterritorial jurisdiction within the boundaries of the area to be included in the proposed district. Requires the board of trustees of a regional sewage district, when seeking to add territory to the district, to file a copy of its motion for the addition of territory in the office of: (1) the executive of each governmental entity having territory within the territory proposed to be added to the regional sewage district; and (2) the executive of a city or town that has a municipal sewage works or public sanitation department if the territory proposed to be added to the regional sewage district includes territory within the extraterritorial jurisdiction of the municipal sewage works or public sanitation department. Defines "governmental entity", for purpose of the law concerning regional water, sewage, and solid waste districts, as a municipal corporation or a special taxing district. Defines certain terms.

Public Law 171-2018 - SEA 392 - Local Government Matters

Amends IC 5-14-3-3, IC 5-14-3-8, amends several chapters in IC 6-1.1 effective July 1, 2018.

Provides that if a public record is in an electronic format, a state or local government agency (excluding the office of the county recorder) shall provide an electronic copy or a paper copy of the public record, at the option of the person making the request for the public record.

Prohibits, with certain exceptions, a state or local government agency from charging a fee for providing a public record by electronic mail.

Public Law 179-2018 - HEA 1109 - Various Pension Matters

Amends several sections in IC 5-10-5.5, IC 5-10-10, IC 5-10.2, IC 5-10.3, IC 5-10.4, IC 36-8-8 effective July 1, 2018. Removes a requirement that only active members of the public employees' retirement fund (PERF) and the Indiana teachers' retirement fund (TRF) may make rollover distributions into annuity savings accounts (ASA) from other qualified retirement accounts. Allows any PERF or TRF member who terminates employment and is not currently employed in a covered position or for the same employer to suspend fund membership, retain the member's creditable service, and withdraw all or part of the amount in the member's ASA before retirement. ... Revises the effective date of participation by a political subdivision joining PERF from the earlier of January 1 or July 1 to a date approved by the INPRS board of trustees, but not later than 60 days after the date the political subdivision's PERF participation is approved...

Public Law 181-2018 - HEA 1233 – Environmental Management Matters

Amends and Adds to various articles in Title 13, including IC 13-26. Provides that the term "onsite sewage system" applies to systems that treat sewage from municipalities or publicly owned treatment works. Strikes an incorrect statutory reference in the section defining that term. Amends the air pollution control law to add a reference to the law establishing the procedure for environmental rule making. Authorizes the use of certain regulated combustion facilities to dispose of drugs confiscated or collected as evidence by law enforcement agencies. Provides for the renewal of the certificate of a wastewater treatment plant operator, water treatment plant operator, or water distribution system operator after three years (instead of two years). Authorizes the environmental rules board to establish: (1) continuing education requirements; and (2) dates by which fees must be paid and proof of compliance with continuing education requirements must be submitted; as a condition of certificate renewal for wastewater treatment plant operators, water treatment plant operators, and water distribution system operators. Provides that, after a solid waste management district (SWMD) is dissolved, an employee of the SWMD who is also a member of the county executive, county legislative body, or county fiscal body: (1) may continue to hold the employee's elected office; (2) is neither required to resign nor considered to have resigned as a county employee; and (3) may not cast a vote on any matter concerning solid waste management as a member of the county executive, legislative body, or fiscal body. Repeals a section providing that a countywide regional water, sewage, or solid waste district established in response to an agreed order must have one appointed trustee who resides in the area that was the subject of the investigation resulting in the agreed order and one appointed trustee who is an elected official representing a political subdivision that has territory in the district. Makes it a Class B misdemeanor: (1) to make a false material statement or representation in a form, notice, or report required under an air pollution control permit or water pollution control permit; (2) to tamper with or falsify data from an air or water pollution monitoring device; or (3) to make a false material statement or representation in a label, manifest, record, report, or other document required under a hazardous waste permit. Makes it a Class B misdemeanor to transport regulated used oil without a manifest. Makes it a Class C misdemeanor to knowingly violate certain air pollution control rules, permit conditions, or fee or filing requirements. Makes it a Class A misdemeanor to willfully or negligently violate certain water pollution control rules, permit conditions, or fee or filing requirements. Defines "negligently." Provides for potential fines for environmental Class A misdemeanors and Class B misdemeanors in an amount exceeding the ordinary statutory limit on fines for Class A and Class B misdemeanors. Provides that certain violations of water pollution standards or limitations may be Class B or Class C misdemeanors. Provides that it is a felony for a person to knowingly commit any of certain offenses involving hazardous waste, air pollution, or water pollution if the person knows that the person's act places another person in imminent danger of death or serious bodily injury. Requires the state department of health to adopt rules concerning: (1) the disposal of sewage through the use of onsite sewage systems for municipalities and publicly owned treatment works; and (2) sewage disposal in agricultural labor camps through methods other than septic tank absorption fields. Provides, for purposes of the statute defining the offense of criminal trespass as knowingly or intentionally entering real property after having been denied entry, that a property owner may "deny entry" to property by placing purple marks on trees or posts around the property. Urges the legislative council to assign an interim committee to study research and outreach efforts to reduce non-point source impacts on water quality conducted through government supported programs and by universities.

Public Law 184-2018 - HEA 1263 - County Jail Issues

Adds or amends several chapters in IC 6-3.6; amends IC 11-12-4-5; adds IC 11-12-5.5; amends IC 35-38-3-3 and adds IC 36-1-8-19 with various effective dates. Provides that a county fiscal body may adopt an ordinance to impose (within the local income tax expenditure rate) a tax rate for correctional facilities and rehabilitation facilities in the county. Specifies that the tax rate must be in increments of 0.01% and may not exceed 0.2%. Provides that the tax rate may not be in effect for more than 20 years. Specifies that the revenue generated by such a tax rate: (1) must be distributed directly to the county before the remainder of the expenditure rate revenue is distributed; and (2) shall be maintained in a separate dedicated county fund and used by the county only for paying for correctional facilities and rehabilitation facilities in the county... Specifies that the executive of a county may enter into an interlocal agreement with one or more other local or state entities for the construction, maintenance, or operation of a regional jail...

Public Law 185-2018 - HEA1290 - Transportation Finance

Adds, Amends, or Repeals several sections in the following chapters of the Indiana Code: IC 6-2.5-5, IC 6-6-1.6, IC 6-6-2.5, IC 6-6-4.1, IC 6-6-5.5, IC 8-14-1, IC 8-14-2, IC 8-16-5.5, IC 8-17-4.1, IC 8-23-29, IC 9-13-2, IC 9-18.1, IC 9-21-8, IC 9-21-22, IC 34-30-2 with various effective dates. Repeals the motor carrier surcharge tax and increases the special fuel tax by \$0.21 per gallon. Distributes part of the special fuel tax revenue to the motor carrier regulation fund. Specifies how netted International Fuel Tax Agreement Clearinghouse refunds and receipts are deposited or credited. Specifies that the commercial vehicle excise tax rate calculation that must be done on or before October 1 of each year is effective on January 1 of the following year. Excludes the transportation infrastructure improvement fee and the supplemental fees for registering electric and hybrid vehicles from the calculation of the commercial vehicle excise tax.

Changes various distribution percentages of revenue distributed from the motor vehicle highway account and highway, road and street fund.

Specifies that heating oil is not included in the sales tax exemption for special fuel.

Establishes the New Harmony and Wabash River bridge authority (bridge authority). Specifies the composition and terms of bridge authority membership. Describes the purpose and duties of the bridge authority. Authorizes the bridge authority to charge and collect a toll for transit across the White County bridge (bridge). Requires the bridge authority to equip, improve, maintain, operate, reconstruct, rehabilitate, and restore the bridge for use by motor vehicles, pedestrians, and other forms of transportation. Allows the bridge authority to issue bonds and notes for certain purposes.

Public Law 189-2018 - HEA 1374 - Financing and Transportation

Adds IC 5-1.2 and IC 5-1; amends or repeals related statutes with various effective dates. Adds a new article to the Indiana Code to consolidate and rewrite various statutes related to the Indiana finance authority (IFA)... Provides for the state, the IFA, and the northwest Indiana regional development authority to finance the northern Indiana commuter transportation district's construction of the mainline double tracking project and the West Lake corridor project... Continues current law appropriations for the wastewater and drinking water programs... Specifies documents that must accompany a loan or financial assistance from: (1) the drinking water or wastewater revolving loans funds; (2) the Indiana brownfields fund; (3) the flood control fund; and (4) local transportation infrastructure revolving funds...

Public Law 196-2018 - HEA 1267 - Water Infrastructure Task Force

Adds IC 2-5-44 effective March 22, 2018. Establishes a water infrastructure task force (task force)... Requires the task force to: (1) study specified issues concerning drinking water systems, wastewater management systems, and storm water management systems; (2) create an empirical decision making tool that will allow policymakers to prioritize water infrastructure projects; and (3) develop a long term plan for addressing drinking water, wastewater, and storm water management needs in Indiana. Requires the task force to submit a report containing certain recommendations to the general assembly and the governor not later than December 1, 2018... Requires the Indiana finance authority (IFA) to contract with an entity of its choosing to study the needs of the state, political subdivisions, and other public and private entities arising from the National Pollutant Discharge Elimination System (NPDES) stormwater program. Provides that IFA must require the contractor to complete and submit a written report setting forth the results of the study not later than December 1, 2019. Urges the legislative council to assign to an appropriate interim study committee the task of studying research and outreach efforts to reduce non-point source impacts on water quality.

Public Law 212-2018(ss) - HEA 1242(ss) - State and Local Administration

Amends several sections of IC 4-30-9, IC 4-33-2, IC 4-33-12, IC4-33-13, IC 4-35-2, IC 4-35-8, IC 5-2-10.1, IC 5-10-1.1, IC 5-10.2-2 effective May 14, 2018. Requires each redevelopment commission to annually present certain information for the governing bodies of all taxing units that have territory within an allocation area of the redevelopment commission. Provides that the presentation shall be made at a meeting of the redevelopment commission and must include certain information. Provides that the governing body of such a taxing unit may request that a member of the redevelopment commission appear before the governing body at a public meeting of the governing body. Requires, for a territory that was annexed by a municipality after June 1, 1976, and before March 4, 1988, one-half of the property taxes attributable to property taxes imposed by the park and recreation district on property that is within the annexed territory to be transferred to the annexing municipality's parks and recreation department. Makes technical corrections.

For information on these or any other bills from the 2018 Legislative Session or 2018 Special Legislative Session, please visit www.iga.in.gov and search the bill number on the tab "Bills".

INVESTMENTS

We have received a number of questions on allowable investments and working with investment companies or brokerage companies. The following is our audit position on this issue.

Investing in Securities:

IC 5-13-9-2 authorizes an investment officer to invest in certain securities that are listed in the statute. There are three categories listed: (1) Securities backed by the full faith and credit of the United States Treasury (2) securities fully guaranteed and issued by a federal agency, federal instrumentality or a federal government sponsored enterprise and (3) Municipal securities issued by an Indiana local government, a quasi-governmental entity related to the state or a unit of government, municipal corporation, or special taxing district in Indiana, if the issuer has not defaulted on any of the issuer's obligations within the last 20 years. The statute goes on to say in subsection (d) that "The investing officers of the political subdivision are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from: (1) a duly designated depository as prescribed in this article; or (2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars (\$10,000,000) according to the last statement of condition filed by the financial institution with its government supervisor body." To determine a duly designated depository, you may review the list of depositories on the Treasurer of State's website. The definition of a financial institution may be found in IC 5-13-4-10.

IC 5-13-4-10"Financial institution"

Sec. 10. "Financial institution" means any of the following:

- (1) A bank, trust company, or mutual savings bank that:
 - (A) was incorporated under the law of Indiana or any other state; and
 - (B) has its principal office or a branch in Indiana.
- (2) A national banking association with its principal office or a branch in Indiana.
- (3) A savings association operating as a deposit association incorporated under Indiana law.
- (4) A federally chartered savings association with its principal office or a branch in Indiana.
- (5) A federally chartered savings bank with its principal office or a branch in Indiana.
- (6) A state chartered credit union in Indiana that is federally insured or privately insured and that has assets of three million dollars (\$3,000,000) or more.

In order for the district to be compliant with statute, the district funds must be deposited with a designated depository or financial institution as defined in the statute. If that is followed, the designated depository or financial institution has custody of the funds. The investment companies may work with a district on the purchase of these securities but they may not directly sell the securities to the district or have custody of any district funds. As an example, a district could purchase a T-Bill from an investment company, however, the cash for the purchase should be sent to the financial institution and the financial institution would then deliver the cash to the investment company after the investment company delivers the T-Bill to the financial institution on behalf of the district. The financial institution would have custody of the T-Bill.

INVESTMENTS - Continued**Investing in Money Market Funds:**

IC 5-13-9-2.5 authorizes a political subdivision to invest money in money market mutual funds with certain restrictions. Again the statute describes the allowable securities for the portfolio of the money market fund. These include (1) direct obligations of the United States; (2) Obligations issued by a federal agency, a federal instrumentality or a federal government sponsored enterprise and (3) repurchase agreements fully collateralized by obligations describe in (1) or (2).

It also requires in subsection (b) "The investment described in subsection (a) shall be made through depositories designated by the state board of finance as depositories for state deposits under 5-13-9.5." The money market fund must be in the custody of the designated depository.

Investing Officer Authority

All investments must comply with Indiana Code 5-13-9 and the investment policies of the district established under IC 5-13-9-5.7.

According to IC 5-13-9-5.7(f), the investing officer may contract with a federally regulated investment advisor or other institutional money manager to make investments under this section. Any contracts should be reviewed by your district attorney to ensure that the district funds are adequately safeguarded within the contract. Even when utilizing the services of an investment advisor, it is ultimately the responsibility of the investing officer to make the final decision on the investments, having done due diligence to ensure that the investments comply with statute and with the district's investment policy. You should keep the documentation of your decision process.

CONTRIBUTIONS, DONATIONS, GIFTS

Following is a brief list of procedures to be followed by district officials in receiving and accounting for monetary contributions, donations, or gifts received by the district. (The term "donation" in this article includes donations, contributions and gifts.)

1. Unrestricted donations are defined as those to which the donor has not attached terms, conditions, or purposes.
2. Restricted donations are defined as those to which the donor has attached terms, conditions, or purposes.
3. The governing body of the district has the option and responsibility to either accept or reject, in writing, any proposed donation.
4. If the donation is a restricted donation, the board must agree, in writing, to the terms, conditions, or purposes attached to the proposed donation.
5. Restricted donations can only be accepted for purposes within the scope of general statutory authority.
6. Income or revenues in the form of tax distributions, tax receipts, fees, rentals, contractual payments, etc., are not to be considered donations.

CONTRIBUTIONS, DONATIONS, GIFTS - Continued

7. Donations which are accepted must be handled in one of the two following methods:
 - A. Unrestricted donations shall be receipted into the operating fund of the district. Expenditure of such donated revenue from the operating fund shall be made only after an appropriation has been provided for the purpose of the expenditure. Claims must be filed and approved in the regular legal manner.
 - B. A restricted donation shall be placed into a separate fund after such fund is established by the district board. Any appropriate descriptive name may be given the donation fund. The donation can be expended only for the purpose and under the terms and conditions agreed to on accepting the donation. Pursuant to Attorney General Official Opinion No. 68 of 1961, no further appropriation is required for expenditure of a restricted donation for the designated purpose. Even though no further appropriation is required, claims must be filed and approved in the regular legal manner before disbursements can be made from the fund.
8. If the volume of restricted donations justifies it, a "control" fund may be established for all restricted donations. Separate, individual accounts would then be established to account for each restricted donation or each type of restricted donation. The total activities of the separate accounts -- receipts disbursements, balances -- should be reflected on the control fund.
9. Income from investments of restricted donations should be receipted into the same fund in which the principal of the donation has been receipted, provided it is to be used for the same purpose as the principal. However, if under the terms of the trust, the principal must be held in trust in perpetuity and only the income used by the governmental unit, there should be two funds established. One fund should be designated as "trust interest." In this situation, expenditures would only be permitted from the Trust Interest (Income) Fund".
10. The district's fiscal officer should be the custodian of the unit's funds and securities.

PUBLIC PURCHASES LAW – OVERVIEW**Definitions**

Change Order	IC 5-22-2-2
Committee	IC 5-22-2-2.7
Contract Modification	IC 5-22-2-3
Contractor	IC 5-22-2-4
Cost Reimbursement Contract	IC 5-22-2-5
Fiscal Body	IC 5-22-2-11
Governmental Body	IC 5-22-2-13
Internet Purchasing Site	IC 5-22-2-13.7
Invitation for Bids	IC 5-22-2-14
Offer	IC 5-22-2-17
Offeror	IC 5-22-2-18
Operating Agreement	IC 5-22-2-19
Person	IC 5-22-2-20
Policy	IC 5-22-2-21
Political Subdivision	IC 5-22-2-22
Public Funds	IC 5-22-2-23
Purchase	IC 5-22-2-24
Purchasing Agency	IC 5-22-2-25
Purchasing Agent	IC 5-22-2-26
Purchase Description	IC 5-22-2-27
Request for Proposals (RFP)	IC 5-22-2-28
Rule	IC 5-22-2-29
Services	IC 5-22-2-30
Solicitation	IC 5-22-2-32
Special Fund	IC 5-22-2-33
Special Purchase	IC 5-22-2-34
Specification	IC 5-22-2-35
Supplies	IC 5-22-2-38
Using Agency	IC 5-22-2-39

Other terms related to purchasing are also defined in [IC 5-22-2](#).

General Rules

The Public Purchasing Law, [IC 5-22](#), applies to every expenditure of public funds by a governmental body to purchase equipment, goods, or materials, unless specifically exempted by law, [IC 5-22-1-1](#).

If the item to be purchased (equipment, goods, or materials, a “supply”, [IC 5-22-2-38](#)) has a cost equal to or above \$150,000, then the purchasing agent must follow the competitive bidding procedures of [IC 5-22-7](#).

If the item to be purchased costs less than \$50,000, then the purchasing agent may purchase in accordance with the small purchase policies established by the purchasing agency or under rules adopted by the governmental body, [IC 5-22-8-2](#).

PUBLIC PURCHASES LAW – OVERVIEW – Continued

If the item to be purchased costs between \$50,000 and \$150,000, the purchasing agent may purchase supplies by inviting quotes from at least three (3) persons known to deal in the supplies to be purchased, [IC 5-22-8-3](#).

Purchases and purchase requirements may not be artificially divided so as to constitute a small purchase under [IC 5-22-8](#), [IC 5-22-8-1\(b\)](#).

A governmental body may adopt rules to regulate purchases of the governmental body. [IC 5-22-3-3](#)

Exception to the General Rules

Purchase of Services: The purchasing agency of a governmental body may purchase services using any procedure the governmental body or the purchasing agency of the governmental body considers appropriate, [IC 5-22-6-1](#). A governmental body may adopt rules and establish policies governing the purchase of services for the governmental body, [IC 5-22-6-2](#).

Public Works: Public works projects are governed by [IC 36-1-12](#). "Public work" means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement, [IC 36-1-12-2](#).

Non-applicability of [IC 5-22](#) to certain governmental bodies, see [IC 5-22-1-2](#).

Types of activities excluded from [IC 5-22](#), see [IC 5-22-1-3](#)

Special Purchasing Methods

No solicitation of bids or proposals, [IC 5-22-10](#):

1. Competition required, [IC 5-22-10-2](#).
2. Unique opportunity for substantial savings, [IC 5-22-10-5](#).
3. Auctions, [IC 5-22-10-6](#).
4. Data processing contracts or license agreements, [IC 5-22-10-7](#).
5. Compatibility, [IC 5-22-10-8](#).
6. Failure to receive responsive offer, [IC 5-22-10-10](#).
7. Discount, [IC 5-22-10-12](#).
8. Single source, [IC 5-22-10-13](#).
9. Contract with federal or state agency, [IC 5-22-10-15](#).
10. Gifts, [IC 5-22-10-17](#).

Other Special Purchasing Situations

1. Online reverse auctions, [IC 5-22-7.5](#).
2. Qualified nonprofit agencies for individuals with a disability, [IC 5-22-13](#).
3. Small business set-aside purchases, [IC 5-22-14](#).

PUBLIC PURCHASES LAW – OVERVIEW – Continued**Purchasing Preferences**

1. Definitions, [IC 5-22-15-2](#) through [IC 5-22-15-6](#).
2. Indiana business preference in rules adopted under [IC 5-22-15-20](#).
3. Preference for supplies as provided by [IC 5-22-15-16, -18, -19, -24](#).
4. Indiana small business preference as provided by [IC 5-22-15-23](#).
5. Indiana farm product preference as provided by [IC 5-22-15-23.5](#).
6. Absolute preference for coal mined in Indiana, [IC 5-22-15-22](#).
7. Supplies manufactured in the United States, [IC 5-22-15-21](#).
8. Steel products manufactured in the United States, [IC 5-22-15-25](#).
9. Governmental body may adopt rules to implement [IC 5-22-15](#), [IC 5-22-15-15](#).

Other Special Purchasing Requirements

1. Purchase from Department of Correction, [IC 5-22-11](#).
2. Purchase of rehabilitation center products, [IC 5-22-12](#).
3. Petroleum products, [IC 5-22-17-10](#).

Request for Proposal Process

A purchasing agent may award a contract using the procedure provided by [IC 5-22-9](#):

1. Request for proposals (RFP), [IC 5-22-9-2, -3, -4, -5, -8](#).
2. Discussions, final offers, awards, [IC 5-22-9-6, -7, -9](#).
3. Evaluation of proposals, [IC 5-22-9-10](#).

Qualifications and Duties of Offerors

1. Responsible and responsive offerors, [IC 5-22-16-1, -2](#).
2. Registration with Secretary of State - foreign corporation, [IC 5-22-16-4](#).
3. Evidence of financial responsibility, performance bond, [IC 5-22-16-5](#).
4. Non-collusion affirmation required, [IC 5-22-16-6](#).

Contracts

1. Cost plus percentage of cost contracts prohibited, [IC 5-22-17-1](#).
2. Cost reimbursement contract allowed under conditions, [IC 5-22-17-2](#).
3. Time period for contracts - generally 4 years, [IC 5-22-17-3](#).
4. Appropriations, cancellation, [IC 5-22-17-3](#) and [IC 5-22-17-5](#).
5. Award of contracts, separate awards, [IC 5-22-17-12](#).
6. Fixed price per unit, [IC 5-22-17-13](#).
7. Renewal of contracts, [IC 5-22-17-4](#).
8. Early or late performance, [IC 5-22-17-6](#).
9. Policies and rules for inclusion of certain clauses or provisions, [IC 5-22-20-1](#).
10. Adjustments in price, [IC 5-22-20-2](#).

PUBLIC PURCHASES LAW – OVERVIEW – Continued**Other Administrative Provisions**

Other procedures governing purchasing are set forth in IC 5-22-18:

1. Public notice, competition, IC 5-22-18-1.
2. Cancellation of solicitation and rejection of offers, IC 5-22-18-2.
3. Offers opened after time stated in solicitation, IC 5-22-18-3.
4. Public inspection of contract and purchasing records, IC 5-22-18-4.
5. Delivery of purchase order or lease, IC 5-22-18-5.
6. Determinations are final, IC 5-22-19.
7. Rules and policies on changes in work, IC 5-22-20-1.
8. Adjustments in price, IC 5-22-20-2.
9. Electronic transmission of material, IC 5-22-3-4, IC 5-22-7-5, IC 5-22-7.3-5, IC 5-22-7.3-9, IC 5-22-9-3



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STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

June 12, 2018

TO: GOVERNMENT OFFICIALS

As an agency, we have evaluated our policies and procedures to provide a more efficient and cost effective audit process to governmental units. Advancements in technology allow us to streamline our processes and do more monitoring, planning, and audit work prior to coming on site.

In order to continue to be as efficient as possible with our processes and procedures, we have developed a new Gateway Application Titled *Monthly and Annual Engagement Uploads (Uploads)*. Within this application, we will be asking for some files to be uploaded monthly and some files to be uploaded annually.

Monthly, we will be requiring the following to be uploaded:

- Bank Reconcilements
- Approved Board Minutes
- Funds Ledger, Detailing Receipts and Disbursements, by Fund

Annually, we will be requiring the following to be uploaded:

- Year-End Bank Statements
- Year-End Outstanding Check List
- Year-End Investment Statements
- Detail of receipts and disbursements for the year
- Salary Ordinance
- Employee Earnings Records
- Annual Vendor History Report

We are requiring that all governmental units, with the exception of schools and counties, start this upload process with July 2018 files. July 2018 files will be required to be uploaded no later than September 15, 2018. We also encourage you to upload prior months' files, back to January of 2018, as this will help us more efficiently plan for your next engagement.

We will ask that counties and schools, including extra-curricular accounts, upload required January files in March 2019. More information will be forthcoming on what documents we will be requesting from counties and schools at a later date.

The availability of these files on Gateway will allow us to do more audit planning and audit work prior to coming on site to your unit. This should significantly minimize the number of days we are on site at the local governmental unit. Additionally, we can perform real-time audit procedures that can be utilized for the next scheduled engagement. The availability of these files will also allow us the opportunity to observe conditions at a unit on an on-going basis. Issues that arise can be detected in the early stages before they become unmanageable. Less time spent on site, real-time audit procedures, and early detection of potential audit issues will provide audit cost savings to a unit.

Government Officials
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June 12, 2018

It is our intent to use this new *Uploads* application to better plan for our audit engagements, better assess the risk of our governmental units, and provide an overall more efficient audit process for each of you. As with any new process, there will be a learning curve. We will work diligently with you to work out any issues that you are having in this upload process.


Our local Directors have begun training on this new application and will continue to do so over the next several months, so please plan to attend your next training opportunity to learn more.

We encourage you to review the user guide for this new application as soon as possible, which is located at:

<https://gateway.ifionline.org/userguides/engagementguide>

Many answers to questions you have will be found here. You might even start at the end of the guide under frequently asked questions which should help you with your most pressing questions.

We appreciate that you have many responsibilities and that your time and efforts are valuable. We would not require this if we were not certain that this would measurably enhance, not only the financial accountability to our citizens, but the overall audit process to each of you. As you go through this process, please do not hesitate to contact us with your concerns and suggestions at gateway@sboa.in.gov.


Paul D. Joyce, CPA
State Examiner