

TOWNSHIP BULLETIN

AND UNIFORM COMPLIANCE GUIDELINES

ISSUED BY STATE BOARD OF ACCOUNTS

Volume 311

December 2015

ITEMS TO REMEMBER

December

- 1 On or before June 1 and December 1 of each year (or more frequently if the county legislative body adopts an ordinance requiring additional certifications) the Trustee shall certify a list of the name and address of each person who has money due from the Township to the County Treasurer. [IC 6-1.1-22-14]
- 16 Last day for the DLGF to accept additional appropriation requests for the 2015 budget year from Townships as prescribed by the DLGF.
- 25 Legal Holiday - Christmas Day [IC 1-1-9-1]
- 30 Deadline for Townships to file shortfall excess levy appeals with the DLGF. [IC 6-1.1-18.5-12(a)(2)]

January

- 1 Legal Holiday - New Year's Day [IC 1-1-9-1]

Set up the Financial and Appropriation Record for the year 2016, by bringing forward the fund (cash) balances at the close of the year 2015 and entering appropriation as finally adopted and approved for the year 2016.
- 5 The Township board shall meet on the first Tuesday after the first Monday in January to elect one member as chairman and one member as secretary for the year. [IC 36-6-6-7(a)]
- 18 Legal Holiday - Martin Luther King, Jr. Day [IC 1-1-9-1]
- 31 100R - Last day to prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents in the Township, and the respective duties and compensation of each, and file in the office of the State Examiner of the SBOA. The report must also indicate whether the Township offers a health plan, a pension, and other benefits to fulltime and part-time employees. The certification must be filed electronically via Gateway. [IC 5-11-13-1(a)]

Last day to provide each employee with a W-2.

After the first Monday (January 4, 2016) and on or before the last day of January, members of the Township board are to meet annually to organize as a Township board of finance by electing one member as president and one member as secretary. During the meeting the investment officer shall make a written report to the investing officer's local board of finance summarizing the Township's investments during the previous calendar year. The report must contain the name of each financial institution, government agency

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or instrumentality, or other person with whom the Township invested money during 2015. The Township board of finance shall do the following at the meeting: (1) Review the report and (2) Review the overall investment policy of the Township. [IC 5-13-7-6, IC 5-13-7-7]

Last day to file quarterly reports with the Indiana Department of Workforce Development for the quarter ending December 31, 2014.

All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1(e)]

February

- 12 Legal Holiday - Abraham Lincoln's Birthday [IC 1-1-9-1]
- 15 Legal Holiday - George Washington's Birthday [IC 1-1-9-1]
- 16 Last day for the meeting of the Township board to consider and approve, in whole or in part, the annual report of the Trustee. [IC 36-6-6-9(a)]
- 26 Last day for the Trustee to file a copy of the annual report, as approved by the Township board, together with the 2015 vouchers, in the County Auditor's office. [IC 36-6-4-12(d)]
- 29 All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1(e)]

March

- 1 Last day to prepare, verify, and file the 2015 annual report with the SBOA. The report must be in the form and content prescribed by the State Examiner and filed electronically via Gateway. [IC 5-11-1-4(a)]
- 15 Last day to publish the abstract of receipts and expenditures required by IC 36-6-4-13. In addition to the abstract, the publishing must state that a complete and detailed annual report and the accompanying vouchers showing the names of persons paid money by the Township have been filed with the County Auditor, and that the Chairman of the Township board has a copy of the report that is available for inspection by any taxpayer of the Township.
- 31 All local investment officers shall reconcile at least monthly the balance of public funds as disclosed by the records of the local officers, with the balance statements provided by the respective depositories. [IC 5-13-6-1(e)]

OFFICIAL BONDS [SENATE ENROLLED ACT 393]

****A similar article appeared in the September 2015 (Volume 310), but is being updated to reflect our updated position.****

The bond amount for a Township Trustee must be thirty thousand dollars (\$30,000) for each one million dollars (\$1,000,000) of receipts of the Township during the last complete fiscal year before the purchase of the bond. The bond amount must be at least \$30,000, but not greater than \$300,000 unless approved by the fiscal body. [IC 5-4-1-18(d)(1), (2)]

Employees or contractors of a Township “whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, the state, a political subdivision, or another governmental entity” must have a bond of at least \$5,000. [IC 5-4-1-18(a)(7), (e)(2)]

The SBOA may increase minimum bond coverage amounts if an examination report finds malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for public funds. [IC 5-4-1-18(j), (k), (l)]

Effective January 1, 2016, all bonds must have a one year term. A continuation certificate is not sufficient. Consecutive yearly bonds must provide separate coverage for each year. [IC 5-4-1-18(m)(1), (2)]

We will not take exception to a new calendar year bond term greater than one year if the current bond expires before December 31, 2015. For example, if the current bond expires on September 30, 2015, we will not take exception to a new bond term from October 1, 2015 to December 31, 2016, even though it is greater than one year. Similarly, we will not take exception to a new calendar year bond term less than one year if the current bond expires after December 31, 2015, but before December 31, 2016. For example, if the current bond expires on March 31, 2016, we will not take exception to a new bond term from April 1, 2016 to December 31, 2016, even though it is less than one year.

Term bonds issued on or after January 1, 2016, are not allowable [IC 5-4-1-18(m)(1)] We recommend that all current term bonds be converted to one year bonds starting January 1, 2016, to comply with the spirit of the amended statute and to reduce the risk of financial exposure to the Township.

Blanket bonds are allowable if they are authorized by resolution, endorsed to cover faithful performance, and include aggregate coverage sufficient to cover all officers, employees, and contractors required to be bonded. [IC 5-4-1-18(b)]

We will not take exception to schedule bonds—by name or position—if the bonds are authorized by resolution, endorsed to cover faithful performance, and include aggregate coverage sufficient to cover all officers, employees, and contractors required to be bonded.

Crime insurance policies providing additional coverage for criminal acts or omissions committed by officers, employees, or contractors are permitted if they are authorized by resolution. [IC 5-4-1-18(c)] We will not take exception if a Township purchases a crime insurance policy in lieu of a bond if the crime insurance policy is authorized by resolution, endorsed to cover faithful performance, and includes aggregate coverage sufficient to cover all officers, employees, and contractors required to be bonded.

The aggregate liability for a surety or insurer for a policy year is the sum of the amounts specified in the bonds issued by the surety or insurer for that policy year. [IC 5-4-1-18(m)(2)] For example, if a Trustee has four consecutive yearly bonds for \$30,000, the maximum liability of the insurer is \$30,000 for each of the four years.

Effective January 1, 2016, all bonds must commence on one of the following: The first day of the calendar year; the first day of the fiscal year of the Township; or the first day of the individual's service in the office or employment position for which a bond is required. [IC 5-4-1-18(m)(1)]

All official bonds shall be made payable to the State of Indiana. [IC 5-4-1-10] The State is considered an additional named insured on all crime insurance policies. [IC 5-4-1-18(c)]

All bonds must be filed with the county. Beginning July 1, 2015, copies of the bonds must also be filed with the Trustee. [IC 5-4-1-5.1(b)]

Bonds must be filed with the county recorder and the Trustee within ten days after their issuance. [IC 5-4-1-5.1(c)]

The Trustee must submit copies of all bonds to the State Board of Accounts electronically via Gateway with their Annual Financial Report. [IC 5-4-1-5.1(e)]

Current bonds already filed with the county recorder are not required to be re-filed with the Trustee. For example, a bond obtained in January 2015, and properly filed with the county recorder does not need to be filed with the Trustee. However, when the January 2015 bond expires and a new bond is obtained in January 2016, it must be filed with both the county recorder and the Trustee.

Indiana Code 5-4-1-18(a)(7) states that bonds are required for individuals: "(A) who are employees or contractors of a city, town, county, or Township; and (B) whose official duties include receiving, processing, depositing, disbursing, or otherwise having access to funds that belong to the federal government, the state, a political subdivision, or another governmental entity." It is our position that for the purposes of IC 5-4-1-18(a)(7), a 'contractor' is a person or business in a contractual relationship with the Township who has a fiduciary relationship with or performs a fiscal responsibility for the Township, and whose accounts are not otherwise covered by the Federal Deposit Insurance Corporation (FDIC). For example, a contractor providing payroll or billing services for the Township is required to be bonded, but a snow removal contractor or lawn service provider is likely not required to be bonded.

The Township must determine who must be bonded under the statute. The term 'official duties' is not defined. It is our position that 'official duties' may include duties set forth in a job description, duties that are customary or routinely performed, or duties that are assigned but not frequently performed. For example, if an office has three employees who routinely accept payments in the Townships office, then all three employees must be bonded. If an employee is assigned to accept certain registration fees but only receives funds once every other year, then that employee must be bonded.

There is no dollar threshold or *de minimis* exception in the statute. However, we will not take exception if employees of the Township who receive, process, deposit, disburse, or otherwise have access to public funds in an amount less than \$5,000 are not bonded.

INDIANA CODE 5-11-1-27(J)

On November 18, 2015, the State Examiner issued [State Examiner Directive 2015-6](#). This Directive is in reference to [IC 5-11-1-27\(j\)](#), which states in part: "All erroneous or irregular material variances, losses, shortages, or thefts of political subdivision funds or property shall be reported immediately to the state board of accounts..." This Directive is applicable to all Townships. Please review the Directive and if you have any questions, please email Ryan Preston and Tyler Michael at Schools.Townships@sboa.in.gov.

POTENTIAL SCHEME TO BE AWARE OF

Please be aware of a potential fraud scheme involving charges on credit cards.

We have become aware of two separate cases within the last month where charges have appeared on a governmental unit's credit card. Both of the questionable charges appeared to come from wireless communications companies. We investigated both instances, including subpoenaing both wireless carriers. Neither company had any record of the charges and was not able to provide any details.

We believe this may be a fraud scheme where someone is making charges on the governmental unit's credit cards and able to manipulate the transaction so it appears on the monthly statement as the charge came a wireless communications carrier. At this time, we don't believe this is a local scheme; it's our thinking this is probably international.

We are recommending governmental units give charges appearing on credit card statements extra scrutiny. Please ensure every charge on your credit card statement has a correlating actual invoice. Should you notice a questionable charge on your statement, please contact your credit card company immediately to dispute the charge.

TELEPHONE AND INTERNET EXPENSES

IC 36-6-8-3 states in part: "The annual appropriation to a township executive for the expenses of renting an office and telephone...expenses must, as nearly as possible, be equal to the actual cost of those items. If the township executive uses a part of the executive's residence for an office, the township legislative body shall appropriate a reasonable sum for that office space."

IC 12-20-5.5-3 states in part: "The township trustee shall ensure adequate access to township assistance services, including a published telephone number in the name of the township."

For telephone, cell phone, and internet services that are restricted to Township use, then Township funds should be used to pay for the entire cost of the services.

For telephone, cell phone, and internet services that are not restricted to Township use, then Township funds may be used to pay for up to 50% of the cost of the base service.

Documentation should be retained to provide evidence that the telephone/cell phone number has been provided to the public as the contact number for the Township office. Common examples of acceptable documentation would include: a copy of the listing in a telephone directory, signage at the township office or a public building, listing on a governmental unit's website, etc. Using Township funds to pay for personal use of telephone, cell phone, or internet services may be the personal obligation of the responsible official or employee.

RAINY DAY FUND

Pursuant to IC 36-1-8-5.1, a Township can establish a rainy day fund (RDF) through the adoption of a resolution. The resolution must state the following: (1) the purposes of the RDF and (2) the sources of funding for the RDF. The sources of funding can include dormant funds (IC 36-1-8-5), CAGIT (IC 6-3.5-1.1-21.1), COIT (IC 6-3.5-6-17.3), CEDIT (IC 6-3.5-7-17.3), or any other funding source specified in the resolution and not otherwise prohibited by law.

In addition, a Township can transfer an amount from a fund as long as it is authorized by the resolution, does not exceed 10% of the total annual budget for that fiscal year and is not from a debt service fund.

Our position is that a unit can transfer money from an appropriated fund to the RDF as long as the purpose of the levy has been fulfilled (and the Township Board has stated such) and the transfer does not exceed 10% of the total annual budget. Also, any fund that has been declared dormant (by the Township Board) under IC 36-1-8-5 can be transferred to the RDF. Please note that Debt Service Funds are explicitly prohibited from being transferred to the RDF.

Township funds that **cannot** be transferred to the RDF:

- | | |
|------------------------------------|---|
| Township Assistance | IC 12-20-21-3 states: "The funds are continuing funds and do NOT revert to any other fund at the end of the year." |
| Fire | IC 36-8-13-4 states in part: "...exclusive funds...and for no other purposes..." |
| Fire Protection Territories | IC 36-8-19-8 states in part: "...money in this fund cannot be used for any other expenses." |
| Park & Recreation | IC 36-10-7-7 states in part: "to be used...for the maintenance and improvement of the park and for no other purpose." |

Township funds that **can** be transferred to the RDF:

- | | |
|---------------------------|---|
| Township (General) | Can be transferred to RDF, subject to max of 10% total annual budget |
| Fire Cum | Can be transferred to RDF, subject to max of 10% total annual budget [IC 36-8-14] - NOTE: If money is transferred from a Cum fund, the DLGF will probably question if you still need that tax levy. |

Township funds that could be in the Township General fund, depending on other information:

- | | |
|------------------|--|
| Donations | If it is a nonrestricted donation, it would go to the Township General fund.
If it is a restricted donation, we would audit to agreement. |
| Cemetery | If a cemetery is conveyed to a township, all the assets, funds, cash, etc. may only be used in connection with that cemetery [IC 23-14-64-3], and therefore could not be transferred to the RDF. However, if the township has established a cemetery, the expenses shall be paid out of the Township General fund [IC 23-14-69-9]. |

MARION COUNTY SMALL CLAIMS COURT - SENATE ENROLLED ACT 523

- I. Prior and Continuing Responsibilities for Marion County Township Small Claims Courts**
- A. **Must provide a courtroom and office.** Indiana Code 33-34-6-1 requires the Township Trustee to provide a courtroom and office for their Township Small Claims Judge in a convenient location within the Township. The space provided must have the following: adequate access; sufficient parking; a separate courtroom; space for the bailiff, clerk, and other court employees; and adequate room for court files and supplies.
 - B. **Must provide supplies and maintenance.** Indiana Code 33-34-6-2 requires the Township to furnish to the Township Court all supplies, furniture, books, and necessary equipment. The Township is further required to maintain the court facilities and equipment.
 - C. **Trustee is the executive of the Township.** Indiana Code 36-6-4-3 requires the Trustee to pay out Township funds and examine all accounts and demands chargeable against the Township. It is SBOA's audit position that the Trustee is the person responsible for paying all claims on behalf of the Township Court. Indiana Code 36-6-4-5 requires the Trustee to maintain the financial and appropriation record of the Township. It is SBOA's audit position that the Township Court's financial transactions should be included in the records that are maintained by the Trustee for the entire Township.
- II. New Powers and Responsibilities of Marion County Township Small Claims Courts**
- A. **Clerks appointed by Judge.** Indiana Code 33-34-6-3 was amended to require the Township to provide a competitive salary for a sufficient number of Court Clerks to operate the court efficiently and to adequately serve the Township citizens. The statute goes on to give the power of filling the clerk positions to the Judge and they are required to serve at the pleasure of the judge. It is SBOA's audit position that the Township Board work with the Trustee and the Judge to determine the number of clerk positions that are required to serve the court. The Township board has the responsibility to set a salary for each clerk position. The Judge has the responsibility to notify the Township Trustee as to who is to fill each clerk position. Each clerk would be a Township employee under the direction of the Judge, and would report to the Judge for job duties and responsibilities.
 - B. **Court Budget.** Indiana Code 33-34-7-4 was added and requires the Judge to prepare and submit a Township Court budget directly to the Township Board. The Township Board will still have the responsibility to approve court appropriations. After, the appropriations are set by the Township Board; the Judge has the responsibility to ensure that court expenses do not exceed the approved court appropriations. SBOA's audit position is that the Township Trustee continues to be the executive of the Township and will retain the responsibilities for keeping the Township records and processing disbursements for the entire Township. We suggest a system be conceived in which the Trustee provides periodic reports to the Judge to notify them of the amount of Court expenses during the period and the amount of court appropriations remaining for the budget period.

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