

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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FROM: Jason Cockerill, Commissioner

DATE: June 10, 2025

SUBJECT: Legislation Affecting Local Budgeting Matters

Introduction

The Department of Local Government Finance (“Department”) issues this memorandum to inform the public and local government officials about legislation passed by the Indiana General Assembly in the 2025 Regular Session concerning local government budgeting matters. In particular, the following:

- Senate Enrolled Act 1 (“SEA 1”), signed into law by Governor Mike Braun on April 15, 2025.
- House Enrolled Act 1427 (“HEA 1427”), signed into law on May 6, 2025.
- House Enrolled Act 1461 (“HEA 1461”), signed into law on May 1, 2025.
- House Enrolled Act 1641 (“HEA 1641”), signed into law on May 1, 2025.

This memorandum is being issued for informative purposes only and is not to be construed as providing legal advice or a conclusive interpretation of law, or as a substitute for reading the law.

I. Legislation Affecting Maximum Levies & Maximum Rates

A. Maximum Levy Growth Quotient, SEA 1

Section 59 of SEA 1 amends Ind. Code § 6-1.1-18.5-2 to extend the cap on the maximum levy growth quotient (“MLGQ”) of 1.04, originally set by House Enrolled Act 1499-2023, through the 2025 Pay 2026 budget cycle. This section is effective upon passage. Therefore, the MLGQ for taxes payable in 2026 will not exceed 1.04.

In addition, Section 64 of SEA 1 amends Ind. Code § 6-1.1-18.5-25 to sunset the additional MLGQ for qualifying municipalities. This section, as amended, provides that this additional MLGQ only applies to property tax levies imposed before January 1, 2026. Therefore, qualifying municipalities will no longer be eligible for growing their levies by this MLGQ starting with the 2025 Pay 2026 budget cycle.

This section is effective July 1, 2025.

B. Excess Levy Appeals, SEA 1

1. Three-Year Growth, Extension of Services, and Consolidation Appeals

Sections 61 and 62 of SEA 1 amends Ind. Code §§ 6-1.1-18.5-12 and 13 to remove the ability of civil taxing units from filing certain excess levy appeals.

Section 61 of SEA 1 provides that an excess levy appeal may be filed when a civil taxing unit “incurs increased costs resulting from an annexation, a natural disaster, accident, or another unanticipated emergency.” Likewise, Section 62 removes references to consolidation, extensions of services, and three-year growth appeals. References to annexation and emergencies are left in.

Starting with the 2026 Pay 2027 budget cycle, the following excess levy appeals will be unavailable:

- Consolidation Appeals (Ind. Code § 6-1.1-18.5-13(a)(1)).
- Extension of Services Appeals (Ind. Code § 6-1.1-18.5-13(a)(1)).
- Three-Year Growth Appeals (Ind. Code § 6-1.1-18.5-13(a)(2)).

Civil taxing units will still be able to submit these appeals for the 2025 Pay 2026 budget cycle, after which the Department will no longer consider these appeals. Accordingly, the Department will remove templates for these appeals from its website.

NOTE: These sections are effective January 1, 2026. Noncode Section 245 of SEA 1 provides that these statutes as amended by SEA 1 “apply to property tax levies after December 31, 2025.” This noncode section, however, is effective January 1, 2026. Under Ind. Code §§ 6-1.1-18.5-12 and 13, civil taxing units must submit excess levy appeals for 2025 Pay 2026 no later than October 20, 2025. Hence, local units will be submitting these appeals under the law as amended before SEA 1.

The Department is currently reviewing the practical effect of Noncode Section 245 of SEA 1 and will provide guidance in its annual excess levy appeal memo, typically issued in the summer.

2. Effect on Shortfall and Correction of Error Appeals

Although Section 61 of SEA provides that an excess levy appeal may be filed due to an annexation or an emergency, SEA 1 does not amend or repeal the provisions allowing for a correction of error (Ind. Code § 6-1.1-18.5-14) or a shortfall appeal (Ind. Code § 6-1.1-18.5-16).

The Department believes that these appeals have not been removed by the revisions to Ind. Code § 6-1.1-18.5-12. Therefore, these appeals will remain available for the 2025 Pay 2026 budget cycle. However, it is unclear whether, since shortfall appeals are referenced in Ind. Code § 6-1.1-18.5-12(a)(2) by virtue of a reference to the filing deadline, that those appeals may only be filed if the civil taxing unit “incurs increased costs resulting from an annexation, a natural disaster, accident, or another unanticipated emergency.” Historically, the shortfall appeal has been filed

on the basis of a civil taxing unit having realized a shortfall in property tax revenue due to erroneous assessed valuation or errors and refunds. See Ind. Code § 6-1.1-18.5-16.

3. School Transportation and Bus Replacement Appeals

Section 224 of SEA 1 amends Ind. Code § 20-46-8-3, effective July 1, 2025, removing the ability of school corporations to file a school transportation appeal **starting with the 2025 Pay 2026 budget cycle**. Specifically, this section provides that the levy appeal for school transportation and bus replacement expenses applies only to property tax levies imposed before January 1, 2026.

Therefore, school corporations will be unable to submit these appeals for the 2025 Pay 2026 budget cycle. Accordingly, the Department will no longer consider these appeals for the 2025 Pay 2026 budget cycle, and will no longer make templates for these appeals available on its website.

C. Fire Protection Territory Maximum Tax Rate, SEA 1

Section 240 of SEA 1 amends Ind. Code § 36-8-19-7 affecting levies imposed by participating units in support of a fire protection territory that is established after December 31, 2024. The provider unit and each participating unit may not impose a property tax rate within the territory that exceeds forty cents (\$0.40) per one hundred dollars (\$100) of assessed valuation.

Please note that no distinction has been made in statute between a levy imposed for the fire territory operating fund (DLGF Fund Number 8704), the equipment replacement fund (DLGF Fund Number 8792), or any debt service fund. Therefore, the Department will apply the forty cent rate limit as being applied cumulatively rather than just on the fire territory operating fund. Per Ind. Code § 36-8-19-8.5, the equipment replacement fund already has a rate cap of three and thirty-three hundredths cents (\$0.0333).

This section is effective retroactive to January 1, 2025.

D. Conservancy Districts Maximum Tax Rate, SEA 1

Section 199 of SEA 1 amends Ind. Code § 14-33-7-3 affecting special benefits taxes imposed by a conservancy district that is established after December 31, 2024. The special benefits taxes may not exceed a rate of five cents (\$0.05) per one hundred dollars (\$100) of assessed valuation of property in the taxing district.

Please note that “taxing district” may refer to Ind. Code § 14-33-7-1, which states that all the real property in the conservancy district constitutes a taxing district for the purpose of imposing the special benefit taxes. The \$0.05 rate limitation therefore likely refers to the special benefit taxes for the conservancy and not that of a taxing district as defined in Ind. Code 6-1.1.

This section is effective retroactive to January 1, 2025.

E. Maximum Levy Adjustments for Failure to Perform Binding Review, HEA 1427

Section 43 of HEA 1427 provides for a temporary reduction of a unit's maximum levy for failing to comply with the applicable requirements of Ind. Code § 6-1.1-17-20, regarding review and adoption of certain units' budgets. Please refer to Section II.C, below.

F. Cultural Institutions Fund and Tax Rate, HEA 1427

Section 153 of HEA 1427 amends Ind. Code § 36-10-13-8 to expand the ability of certain school corporations to impose a property tax rate to fund cultural institutions. Currently, school corporations located in Marion County or Lake County can adopt this tax rate. As amended by HEA 1427, the availability of this tax rate is expanded to include a school corporation in:

- (1) Marion County; or
- (2) a county with a population of more than one hundred seventy-five thousand (175,000) and less than seven hundred thousand (700,000), as of the 2020 federal decennial census.

The governing body (as opposed to a governing "board" under current law) may impose a tax rate of not more than five-tenths of one cent (\$0.005). The school corporation must deposit the proceeds of the tax in a cultural institution fund. This fund may only be used to provide funds for a cultural institution. This fund is separate and distinct from the operations fund and education fund. The governing body may annually appropriate money in this fund, to be paid in semiannual installments to a cultural institution having facilities in the county.

In the case of a cross-county school corporation, the governing body may impose a property tax levy for the cultural institutions fund only on real and personal property in the counties stated above.

A tax rate and levy for the cultural institutions fund:

- (1) must be certified by the Department under Ind. Code § 6-1.1-17-16; and
- (2) are not considered part of the school corporation's operations fund maximum levy.

This section is effective July 1, 2025.

II. Legislation Affecting Adoption of Budgets & Levies

A. Local Fire Contract Uploads, HEA 1427

Section 10 of HEA 1427 amends Ind. Code § 5-14-3.8-3.5 to provide that the fiscal officer of a unit shall upload any contract for fire or EMS services entered into by the unit during the prior year. Currently, the statute states that the unit's executive is required to make the affirmation. The provision allowing the executive body of the unit to adopt an ordinance or resolution to

identify another individual to perform the upload, or to submit the affirmation required by Ind. Code § 6-1.1-17-5.4, has not changed.

Likewise, Section 42 of HEA 1427 amends Ind. Code § 6-1.1-17-5.4 to provide that the fiscal officer of a unit, and not the executive, shall submit the affirmation required by this statute that the political subdivision uploaded any contract for fire or EMS services entered into during the prior year.

These sections are effective July 1, 2025.

B. Ordinance to Increase Levy from Prior Year, SEA 1

Sections 55 through 58 of SEA 1 add or amend provisions to Ind. Code § 6-1.1-17 to establish a new process that local units must follow in order to increase their property tax levies from the immediately preceding year. These changes are effective July 1, 2025, but note that this new process will not apply until the 2029 Pay 2030 budget cycle.

Section 58 adds Ind. Code § 6-1.1-17-23 as a new section. Beginning **after December 31, 2028**, the fiscal body of a local unit may not increase the unit's levy above the levy from its last preceding annual budget unless the fiscal body adopts an ordinance authorizing "the proper officer of the political subdivision to formulate and submit a budget, tax rate, and tax levy under [Ind. Code § 6-1.1-17-3]" that exceeds the prior year's levy, subject to all other limitations prescribed by Ind. Code § 6-1.1. The Department believes the "last preceding annual budget" of the political subdivision refers to the last preceding certified budget under Ind. Code § 6-1.1-17-16; i.e., the certified budget for the year in which the upcoming budget is being prepared.

In order to adopt this ordinance, the following must take place:

- (1) The fiscal body must hold a public hearing. The only item on the agenda for the public hearing must be the proposal to adopt the ordinance. The public hearing must comply with the Open Door Law and notice of the hearing must be published in accordance with Ind. Code § 5-3-1.
- (2) After conducting the public hearing, **but no later than fifteen (15) days before the budget hearing under Ind. Code § 6-1.1-17-3**, the fiscal body may adopt the ordinance to increase the tax levy. The ordinance must contain:
 - A general statement of the reasons for the tax levy and tax rate increase.
 - The dollar amount of the tax levy increase.
 - The percentage increase in the tax rate from the previous year.

If an ordinance is adopted to increase the local unit's property tax levy over the prior year's levy, the unit's levy for the upcoming budget year shall not exceed the sum of:

- (1) the unit's levy for the last preceding annual budget; plus
- (2) the levy authorized in the ordinance adopted by the fiscal body.

Finally, in the case where an ordinance is not adopted, the local unit's tax rate will be decreased to reflect an increase in the unit's assessed value in the previous year. It is unclear what Ind. Code § 6-1.1-17-23 means by "assessed value in the previous year." Specifically, "in the previous year" is ambiguous. It can mean the year before the ordinance is adopted, or the year in which the levy would be imposed.

In addition, other provisions of Ind. Code §6-1.1-17 were amended by SEA 1 to reflect this new process.

Section 55 amends Ind. Code § 6-1.1-17-3 to require that the Form 3 – Budget Notice, include the amount of any increase in the tax rate and tax levies of the political subdivision adopted by the ordinance under Ind. Code § 6-1.1-17-23. This section also provides that the tax rate imposed by a township to meet the estimated cost of township assistance is subject to this new ordinance requirement.

Section 56 amends Ind. Code § 6-1.1-17-16 to state that the Department must calculate and certify the allowable tax levy and tax rate for the local unit based on the provisions of Ind. Code § 6-1.1-17-23.

Section 57 amends Ind. Code § 6-1.1-17-17 to provide that Ind. Code § 6-1.1-17-23 will not limit the ability of the Department to increase a local unit's tax levy and tax rate to pay for obligations listed in the statute.

NOTE 1: The Department emphasizes that although the effective dates of Sections 55 through 58 are all July 1, 2025, Ind. Code § 6-1.1-17-23(a) expressly states that it does not apply until **after December 31, 2028**. Therefore, the requirement to adopt this ordinance in order to increase the unit's tax levy does not technically begin until the 2029 Pay 2030 budget cycle. Therefore, the Department believes that the other provisions amended to reflect this new process, such as the adding of information to the Form 3, would not technically begin until the 2029 Pay 2030 budget cycle.

NOTE 2: Neither Ind. Code § 6-1.1-17-23 nor other affected provisions address how the limitation imposed by Ind. Code § 6-1.1-17-23 relates to the maximum levy under Ind. Code §6-1.1-18.5.

NOTE 3: In the case of a new unit of government or a unit that is imposing a property tax levy for the first time, the unit's prior year levy would be zero (i.e., no levy at all). Therefore, the unit would be required to adopt an ordinance under Ind. Code § 6-1.1-17-23 in order to impose a property tax levy for the upcoming year.

As the changes under Sections 55 through 58 of SEA 1 would not apply until the 2029 Pay 2030 budget cycle, the Department will issue additional guidance in the future.

C. Maximum Levy Adjustments for Failure to Perform Binding Review, HEA 1427

Sections 43 and 44 of HEA 1427 amend Ind. Code §§ 6-1.1-17-20 and 20.3, respectively, regarding the fiscal body's adoption of budgets for units subject to binding review under the same statute ("binding review").

The amendment addresses the consequences under:

- (1) Indiana Code §§ 6-1.1-17-20(f) and 20.3(f), when a unit subject to binding review (a "binding unit") fails to timely submit its proposed budget and levy to the appropriate fiscal body (the "adopting unit"); or
- (2) Indiana Code §§ 6-1.1-17-20(g) and 20.3(g), when a binding unit timely submits its proposed budget and levy but the adopting unit fails to perform binding review.

Under current law, Ind. Code §§ 6-1.1-17-20(f) through (g) and 20.3(f) through (g) provide that the binding unit or adopting unit's budget and tax levy, as applicable, are continued for the upcoming budget year. As amended, instead of the binding unit or adopting unit's budget and tax levy being continued, the binding unit or adopting unit's maximum levy for the upcoming budget year is calculated in the following manner, instead of being adjusted by the MLGQ:

STEP ONE: Determine

- (A) the result of STEP FOUR of Ind. Code § 6-1.1-18.5-2(b) or STEP FIVE of Ind. Code § 6-1.1-18.5-2(e) (as applicable); minus
- (B) one (1).

STEP TWO: Multiply

- (A) the STEP ONE result; by
- (B) eight-tenths (0.8).

STEP THREE: Add one (1) to the STEP TWO result.

Therefore, the MLGQ by which the binding unit or adopting unit's taxing unit is able to increase its maximum levy for the upcoming budget year will be adjusted down to 80% of the MLGQ determined under Ind. Code § 6-1.1-18.5-2.

For example, if the MLGQ for 2025 Pay 2026 is 1.04, the MLGQ applied to the maximum levy of a binding unit or adopting unit that failed to take the required actions under Ind. Code § 6-1.1-17-20 or 20.3, as applicable, is 1.032 ($1.04 * 0.80 = 1.032$).

However, if the binding unit or the adopting unit takes the applicable action required by Ind. Code § 6-1.1-17-20 or 20.3, as applicable, for the next budget year, the unit's maximum levy is calculated as if the prior year's maximum levy was calculated using the MLGQ as calculated

under Ind. Code § 6-1.1-18.5-2 and not the MLGQ as adjusted under this section. In other words, if a binding unit or adopting unit failed to comply with Ind. Code § 6-1.1-17-20 or 20.3 in a budget year, resulting in an adjusted maximum levy, but subsequently complies in the following year, the calculation of the maximum levy shall revert to the level as if the previous adjustment had not taken place. This is intended to make this a temporary, one-time adjustment, as long as the unit complies with the applicable requirement in Ind. Code § 6-1.1-17-20 or 20.3, as applicable.

Sections 43 and 44 are effective July 1, 2025; therefore, this adjustment will first potentially be applied starting with taxes payable in 2026, based on binding adoptions of budgets in the 2025 Pay 2026 budget cycle.

III. Legislation Affecting Debt Issuances

A. Limitation on Consecutive Debt Issuances, SEA 1

Section 3 of SEA 1 adds Ind. Code § 5-1-14-17 as a new section, effective upon passage.

This section affects the ability of a county, city, town, township, or school corporation (defined in the statute as a “qualified political subdivision”) to issue short term general obligation bonds. Specifically, this section applies to a general obligation bond that:

- (1) has a period of not more than five (5) years;
- (2) is payable by property tax; and
- (3) is for a purpose or project that is not considered a “controlled project” under Ind. Code 6-1.1-20.

If the qualified political subdivision issues new general obligation bonds, or has issued general obligation bonds before May 1, 2025 for a period of two (2) years or less, then at the expiration of those general obligation bonds, the qualified political subdivision must wait one (1) year from that date before the qualified political subdivision may issue general obligation bonds.

This section also provides for an exception to this one-year cooling off period, where the general obligation bond is being issued “in the case of a natural disaster, an accident, or another unanticipated emergency as determined by the [Department].” Pursuant to this statute, the Department will only consider as eligible for this exception emergencies so declared by the Governor by executive order pursuant to Ind. Code § 10-14-3-12.

B. Controlled Projects, SEA 1

Please refer to the Department’s memorandum entitled “Legislative Changes to Property Tax Referenda and Controlled Projects” for more information on changes concerning controlled projects.

IV. Legislation Affecting Tax Increment Finance

A. Residential Property, HEA 1641

Section 20 of HEA 1641 amends Ind. Code § 36-7-14-39(k) to modify the definition of “residential property” for purposes of assigning parcels to the base assessed value of an allocation area (also known as a “TIF district”) created after June 30, 2025. Specifically, this subsection clarifies the phrase “property that is assessed as residential property” for purposes of determining the base assessed value of a TIF district (as defined in Ind. Code § 36-7-14-39(a)). TIF districts created under Ind. Code § 36-7-14-39 cannot have any assessed value attributed to residential property be part of the “incremental assessed value.”

Under current law, for TIF districts created after June 30, 2025, “residential property” is property that has been either:

- (1) allocated to the one percent (1%) homestead land and improvement categories in the county tax and billing software system; or
- (2) the residential assessed value as defined for purposes of calculating the rate for the local income tax property tax rate credit (“PTRC”) designated for residential property under Ind. Code § 6-3.6-5-6(d)(3).

In other words, in a TIF district created under Ind. Code § 36-7-14-39 after June 30, 2025, parcels that are assigned to the “1% bucket” in a county’s tax and billing system, or are treated as residential property for purposes of the county’s PTRC allocation, must be included in the base assessed value. HEA 1641 amends this law by removing the PTRC allocation as a category by which a parcel would be included as “residential property.” Therefore, in determining whether the assessed value of a residential property must be included within the base assessed value of a TIF district created under Ind. Code § 36-7-14-39 after June 30, 2025, only parcels that are allocated to the one (1%) homestead land and improvement categories in the county tax and billing software system are considered.

Section 20 of HEA 1641 is effective July 1, 2025. Please note that Ind. Code § 36-7-14-39(k) does not apply to any TIF districts created before July 1, 2025, or to TIF districts where the allocation of TIF revenue is done by another statutory mechanism outside of Ind. Code § 36-7-14-39, such as “residential TIFs” under Ind. Code § 36-7-14-53.

B. TIF Neutralization, SEA 1

Section 5 of SEA 1 adds Ind. Code § 6-1.1-2-11 as a new section, effective upon passage. This section provides that in calendar years 2026 through 2033, the Department shall adjust the base assessed values of the allocation areas established under the statutes below to neutralize the effect of changing tax rates as a result of application of the following property tax deductions:

- (1) The Homestead Standard Deduction (Ind. Code § 6-1.1-12-37).
- (2) The Homestead Supplemental Deduction (Ind. Code § 6-1.1-12-37.5).

- (3) The Non-Homestead Residential Property Deduction (Ind. Code § 6-1.1-12-47).

The allocation areas affected by this neutralization are those established under the following statutes:

- (1) Ind. Code § 6-1.1-39 (economic development districts).
- (2) Ind. Code § 8-22-3.5 (airport development zones).
- (3) Ind. Code § 36-7-14 (redevelopment of areas needing redevelopment generally).
- (4) Ind. Code § 36-7-15.1 (redevelopment of areas in Marion County).
- (5) Ind. Code § 36-7-30 (reuse of federal military bases).
- (6) Ind. Code § 36-7-30.5 (development of multicounty federal military bases).
- (7) Ind. Code § 36-7-32 (certified technology parks).
- (8) Ind. Code § 36-7-32.5 (innovation development districts).
- (9) Ind. Code § 36-7.5-4.5 (rail transit development districts).

Please note the following statement of intent by the General Assembly in Ind. Code § 6-1.1-2-11:

“It is the intent of the general assembly that an increase in revenue from a change in tax rates resulting from these statutes accrue only to the base assessed value and not to the tax increment financing allocation area. However, in the case of a decrease in revenue from a change in tax rates resulting from these statutes, the [Department] may neutralize the change under [Ind. Code § 6-1.1-2-11] in a positive manner with regard to the tax increment financing allocation area to protect the ability to pay bonds based on incremental revenue, if the tax increment financing allocation area demonstrates to the [Department] that an adjustment is needed before the [Department] calculates a positive neutralization adjustment.”

Therefore, the Department’s neutralization of assessed values in the above-referenced allocation areas:

- (1) May not result in increased TIF revenue being allocated to the redevelopment commission (“RDC”), but must be distributed to the underlying taxing units as a part of the base assessed value. In other words, the TIF district and the RDC are not to benefit from the increase in the tax rates because of the application of these tax deductions.
- (2) May be adjusted “in a positive manner” to protect the ability to pay bonds based on incremental revenue, at the request of the TIF district and upon a showing that the adjustment is needed. It is unclear which entity would request on behalf of the TIF district.

The Department also stresses that although this section is effective upon passage, it requires the Department to take action under “in each year beginning after December 31, 2025, and ending before January 1, 2034.” Therefore, the Department will not first take action until calendar year 2026, for 2026 Pay 2027 taxes.

The Department will provide additional information following the conclusion of the 2025 Pay 2026 budget cycle with regard to this neutralization process.

V. Legislation Affecting Property Tax Billing, HEA 1427

A. Properties with No Tax Liability & Exempt Properties

Sections 48 of HEA 1427 amends Ind. Code § 6-1.1-22-8.1 to provide that the county treasurer does not need to issue property tax bills (i.e., the TS-1) to properties with no tax liability or that are exempt from property tax and do not have a reported assessed value. “Liability,” for purposes of this section, means property taxes or special assessments greater than zero dollars (\$0).

This section is effective July 1, 2025.

B. Property Tax Deduction Information on Tax Bills

Section 50 of HEA 1427 adds Ind. Code § 6-1.1-22-19 as a new section, effective July 1, 2025, and will apply to tax bills/TS-1s provided to taxpayers after December 31, 2025.

The Department shall include on the coupon page of the tax bill/TS-1 “educational information regarding the eligibility and procedures” for the following deductions and credit:

- (1) The deduction for a veteran with a partial disability (Ind. Code § 6-1.1-12-13).
- (2) The deduction for a totally disabled veteran or a veteran who is at least sixty-two (62) years of age who is partially disabled (Ind. Code § 6-1.1-12-14).
- (3) The deduction for a homestead donated to a disabled veteran (Ind. Code § 6-1.1-12-14.5).
- (4) The over 65 credit (Ind. Code § 6-1.1-51.3-1). This does not refer to the Over 65 Circuit Breaker Credit, which is codified in Ind. Code § 6-1.1-20.6-8.5.

The Department shall determine the manner in which this information will be included on the coupon page. Please note that this will first affect tax bills/TS-1s for the 2025 Pay 2026 tax year.

C. Payments by a Check Processing Company

Section 57 of HEA 1427 amends Ind. Code § 6-1.1-37-10 to provide that, if payment of a property tax installment is done through a check processing company, and payment was made without a postmark or other method of verification allowed under this statute, the taxpayer can provide reasonable evidence that payment was made on behalf of the taxpayer on or before the due date for that installment.

“Reasonable evidence” under this provision includes a statement from a ledger of payments maintained by the check processing company showing the date the payment was made for the taxpayer.

This section is effective July 1, 2025, thus will first apply for the November 2025 installment.

VI. Township Road Funding, HEA 1461

Sections 35 through 40 of HEA 1461 amends or adds several provisions of the Indiana Code as it relates to township road funding. In particular, capital improvement plans adopted by Ind. Code § 36-6-9. All these sections are effective July 1, 2025.

A. Township Capital Improvement Plans

1. Application of Provisions to All Townships after June 30, 2025

Section 36 of HEA 1461 amends Ind. Code § 36-6-9-5. Previously, this statute provides that a township must adopt a capital improvement plan if the total amount of funds in its capital improvement funds exceeds either:

- (1) 150% of the township’s total annual budget estimate prepared under Ind. Code § 6-1-1.17-2 for the ensuing year; or
- (2) two hundred thousand dollars (\$200,000).

Please note that “capital improvement fund” is defined in Ind. Code § 36-6-9-3 to include a number of different township funds, but essentially any fund established by the township for the payment of capital improvements.

Under Ind. Code § 36-6-9-5 as amended by HEA 1461, all townships must adopt a capital improvement plan under Ind. Code 36-6-9 after June 30, 2025.

2. Requirements for Capital Improvement Plans after June 30, 2025

Section 38 of HEA 1461 adds Ind. Code § 36-6-9-12 as a new section. This section provides that beginning July 1, 2025, a township must adopt a plan on an annual basis. In addition, this plan must be filed with the Department, in a form and manner prescribed by the Department.

The plan must include:

- (1) the balance of all unrestricted funds that exceed the township’s budget for the following year; and
- (2) the purpose for which all unrestricted funds are being retained.

“Unrestricted funds” is defined by new section Ind. Code § 36-6-9-4.5, added by Section 35 of HEA 1461. This term means cash reserves that are not:

- (1) obligated by a township's following year budget;
- (2) committed to a township's capital improvement plan;
- (3) encumbered by a contract or purchase order;
- (4) restricted for a specific use by state or federal law or other applicable state or federal rule;
- (5) restricted by contractual obligation; or
- (6) restricted by a third-party.

In addition, Section 37 of HEA 1461 amends Ind. Code § 36-6-9-7 to provide that the capital improvement plan must be adopted no later than September 30 of each year.

B. Township Roads and Infrastructure Fund

Section 40 of HEA 1461 adds Ind. Code § 36-6-10 as a new chapter, establishing the township roads and infrastructure fund. Under Ind. Code § 36-6-10-2, a township must establish this fund for the improvement and maintenance of roads and infrastructure within the township's boundaries.

Per Ind. Code §§ 36-6-10-3 and 36-6-10-4, a township must also enter into a written memorandum of understanding with a city, town, or county, as applicable, for the transfer of funds from the township road and infrastructure fund to the city, town, or county. This transfer is for the purpose of bidding out projects approved by the township for the improvement of roads and infrastructure within the township's boundaries. Before the memorandum can be entered into, the township board must adopt a resolution in favor of providing money for the improvement and maintenance of roads and infrastructure.

Per Ind. Code § 36-6-10-5, a transfer from the township road and infrastructure fund must be done in the same manner as a transfer from the rainy day fund under Ind. Code § 36-1-8-5.1. However, the amount of transfer of unobligated cash balances as described in Ind. Code § 36-1-8-5.1(d)(2)(B)(iii) shall contribute thirty percent (30%) of the balance of all unrestricted funds (as defined in Ind. Code § 36-6-9-4.5, see Section IV.A.2, above) that exceed the township's budget for the following year, as provided in the capital improvement plan under Ind. Code § 36-6-9-12(b)(1) (see IV.A.2, above).

In other words, the township must transfer under this written agreement an amount equal to 30% of the cash balances in the township's funds that are not retained in accordance with its annually adopted capital improvement plan. It is unclear whether this statute sets a minimum amount of the transfer, or if the township may only transfer 30% of the unencumbered excess of its unrestricted funds.

Additional guidance on issuing township capital improvement plans for 2025 Pay 2026 will be forthcoming.

VII. Legislation Affecting CNAV Submissions, HEA 1427

Section 41 of HEA 1427 amends Ind. Code § 6-1.1-17-1 regarding the county auditor's certification of net assessed values ("CNAV"). This change is effective July 1, 2025, and will first apply to CNAV submissions for the 2025 Pay 2026 budget cycle.

Currently, an amended CNAV submission may occur on the later of September 1 or fifteen (15) days after the county auditor originally submitted the CNAVs to the Department. Starting with 2025 Pay 2026 budgets, the county auditor may submit amended CNAVs by the later of the following dates:

- (1) September 1.
- (2) Fifteen (15) days after the original CNAVs are submitted to the Department.
- (3) Fifteen (15) days after the Department notifies the county auditor of an error in the original CNAV submission that the Department determines must be corrected.

This change in the law is to allow county auditors the opportunity to amend the CNAV submission on account of an error in the original submission that is discovered by the Department, regardless of whether the county auditor had also discovered the error.

Contact Information

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