

LEGISLATIVE UPDATE

Association of Indiana Counties
2012 District Meetings

Local Income Tax Under-Distribution

- **Issue:** Dept. of Revenue misclassified estimated payments that broke apart both county and state income taxes. County portion was collected but not accounted in the report used to develop local distributions. Under-distribution occurred from January 2011 to April 2012.
- **Distribution:** \$206 million distributed to counties this week. DLGF to calculate certified shares for local units, amounts to be reserved for property tax relief, and portions reserved for public safety. Base amount for monthly distribution for May thru December 2012 will also increase by about \$128 million.
- **Property Tax Relief:** Amount to be retained for relief on pay 2013 property taxes. Circuit breaker credits will be impacted as the lack of relief this year and inflated relief next year may result, depending on the individual taxpayer, with less property tax collected than would have otherwise.

Under-distribution continued:

- **Trust Balance Accounts:** Because of the two year delay between income earned and distribution to counties and the volatility of income taxes, each county maintains positive or negative balances. In January 2011, counties were told of a statewide negative balance of over \$506 million. In reality, the negative balance was only \$147 million. Many counties will now be in a positive position and begin to see growth in their distributions based on the local income tax base.
- **Moving forward:** Independent audit should look not only at local income taxes, but also fuel taxes, food and beverage taxes, prepaid 911 fees (collected as sales tax), and others. Mechanism for some local review of revenue data must be established.

Session Summary.

- Right to Work signed into law. Dominated first month of session.
- AIC tracked nearly 300 bills.
- 60 tracked bills signed into law.
- Early Sine Die of March 10 at 3:00am.
- Population parameters for counties updated or changed to individual county names.

911 Funding

- SEA 345 sets the fee at \$0.90 for all land lines and cell phones, but pre-paid purchases are set at only \$0.50 (effective July 1).
- Local land line rates would disappear and all revenue would be collected by the state (effective July 1).
- Each County will receive no less than last three year average of combined land line and wireless revenue.
- Current land line and wireless funds to be combined on July 1.
- Eligible expenses are also defined. SEA 345 allows purchase of mobile radios and up to 50% of narrow-banding cost to be funded by fees. Bricks and mortar costs are NOT eligible under new fund.
- The state wireless board is adjusted to include more local elected and public safety officials.

Local Government Reform

- Single County Commissioner
 - Local option in SB 110 did not receive a final vote in the Senate.
 - Final version would have allowed commissioners to pass ordinance sending single county commissioner reorganization to a public referendum.
- Township Reform
 - No bill moved out of committee.
- Financial Disclosure for Local Candidates – SEA 193.
- Post-election training requirement for County Treasurers and County Auditors – SEA 147.
- Personnel Report under IC 5-11-13-1 “must also indicate whether the political subdivision offers a health plan, a pension, and other benefits to full-time and part-time employees.” – HEA 1072

Purchasing and Public Works

- Disclosure requirements for contracts with relatives. HEA 1005.
- Local purchasing preference made a local option. Local preference for public works repealed. SEA 109.

Nepotism and Conflict of Interest – HEA 1005

- Prohibits officials who take office or begin a new term in *after* 2013 from being an employee of the unit.
 - Employee could run for office but would forfeit employment upon assuming office.
- Prohibits hiring of relatives by those in *direct line of supervision* of the employee.
 - Relative includes spouse, parent or stepparent, child or stepchild, brother, sister, stepbrother, or stepsister, niece or nephew, aunt or uncle, daughter-in-law or son-in-law.
 - County Commissioners must implement policies to conform to statute. Failure to do so would result in DLGF denying budgetary approval.
 - Every office holder must certify, under penalties of perjury, to executive by Dec. 31 of every year that they have complied.
- Contracts with relatives must be disclosed.
 - In addition to the uniform conflict to interest disclosure form.
 - Have to file disclosure with legislative body, county clerk, and SBoA.
 - Every office holder must certify, under penalties of perjury, to executive by Dec. 31 of every year that they have complied.

Assessment Appeals – HEA 1195

- Creates a \$50 penalty on tax bill for failure to follow timeline for PTABOA hearings.
 - 30 days notice to taxpayer of hearing.
 - 20 days until hearing for taxpayer to request (with just cause) a continuance.
 - 10 days until hearing for notice to taxpayer of determination on continuance.
 - 8 days until hearing for notice of withdrawal of appeal, or request that a determination be made without the presence of the taxpayer or representative.
- Sets March 1 deadline for filing income information with the County Assessor, for income approach to assessment. NO penalty for failure to comply.
- Requires affidavit that substantive evidence was presented at PTABOA hearing. If no evidence submitted, taxpayer loses potential interest on appeal.
- Explicitly allows the use of comparable assessments in a appeal. Market-value-in-use remains that standard of assessments.
- Effective July 1, 2012.

Cyclical Reassessment and Other Assessments Issues

- SEA 19
 - Physical inspection of property to be conducted on a yearly basis with 25% of parcels inspected each year on 4 year cycle.
 - Requires plan to be submitted to DLGF by July 1, 2013 with the first group being inspected for the March 1, 2014 assessment date.
 - At least 25% of each group must contain each class of property.
 - Allows counties to send Form 11s by e-mail.
 - Extends date for adoption of new soil productivity factors to 2013.
- HEA 1195 extends date for currently elected county assessors to obtain Level III certification.
- HEA 1072 establishes new tables for assessment of outdoor signs.

Investments and Interest Rates

- SEA 147
 - Changes the interest rate on tax refunds and interest on payments to the County Treasurer (ONLY on appeals decisions) to a market rate set each year based on the investments by the State Treasurer. 2012 rate would be approximately 2.5%. DOES NOT impact penalties or interest for late payments.
- SEA 191
 - Allows a county, by ordinance of fiscal body, to extend terms of investments from maximum of two years to five years.
 - Extended term investments limited to only 25% of units investment portfolio.
- SEA 109
 - Expands financial institutions ability to use public deposits invested through CDARs.

**Efforts to provide County Treasurers with additional options for public deposits failed to pass.*

Tax Collections and Tax Sales

- HEA 1090
 - Gives all County Treasurers the option to negotiate flexible payment plans for tax sales. Violation of plan would result in parcel going onto tax sale list and a five year period where the taxpayer could not sign onto another plan.
 - Gives counties the option, by council ordinance, to set a new minimum bid for tax sales at 75% of assessed value.
 - Allows counties to establish, by council ordinance passed prior to July 1 2012, an amnesty period for penalties and interest if delinquent tax liability, due prior to January 1, 2012, is paid *AND* taxes and special assessments due and payable prior to July 1, 2013 are paid. Amnesty period expires July 1, 2013.
- SEA 147
 - Sets minimum of \$25 liability before properties could be added to tax sale list. DOES NOT waive liability.
- HEA 1249 - Land Banks and tax sales to be studied by summer study commission.

Inheritance Tax Phase-Out

- Counties currently receive about 8% of collections, which is \$15 – 20 million each year statewide. 2011 revenue ranged from \$1,688,959 (Marion) to \$5,607 (Crawford).
- SEA 293 expands the exemptions of the inheritance tax for deaths occurring in 2012 (retroactive provision) and phases out inheritance tax over 9 year period with the state fiscal year beginning July 1, 2013.
 - Guaranteed amounts to counties will begin declining by 10% each year beginning with 2013 distributions until completely eliminated.

Other Tax Provisions

- No interest loan from state general fund available to units that lost revenue based on capital fund rate calculation change. Loan must be repaid through increased debt service fund in 2013. HEA 1072.
- Property taxes and miscellaneous revenue in county general fund eligible for county highway expenses, effective July 1, 2012. SEA 98.
- The county auditor may limit the evidence that an individual is required to submit for a homestead deduction to:
 - state income tax return,
 - valid driver's license,
 - valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence. HEA 1072.
- Allows a taxpayer to appeal determination of homestead to PTABOA. HEA 1072.
- Distressed units allowed to apply for state intervention under certain circumstances. HEA 1192.

Criminal Justice Issues

- HEA 1200 – Continue to study and gather data on corrections funding. DOES NOT contain local spending mandates or changes to jail, probation, community corrections funding.
- HEA 1040 – Allows counties to adopt an ordinance authorizing services of “community fast responders.”
- SEA 286 – DCS bill that contains provisions eliminating requirement that county pays for child welfare services if court order is incorrectly drafted.
- SEA 176 – Allows judges to issue immediate detention orders. If order is found to be without cause, county must cover cost of incarceration.

Public Access and Open Door Law

- HEA 1003
 - Creates personal fines for knowing and intentional violations of access to public records law.
 - Up to \$100 for first violation. Maximum of \$500 for subsequent violations.
 - Fines can only be made after due process and a judicial decision.
 - If units currently post meetings on website or adopts a policy to do so, requires up-to-date notice of all public meetings (48 hours in advance) on local unit's website or individual emails to all who request being on emailing list.
 - Public agencies and political subdivision may not conduct meetings using electronic means of communication unless specifically authorized by statute.

Budgetary Review

- HEA 1072
 - Clarifies that all non-elected boards, except libraries who are still only binding if they exceed AVGQ, are subject to binding review.
 - Requires units that are subject to binding review to also receive approval from county council or appropriate fiscal body for additional appropriations.
 - Sets deadlines for submittal of budgets to county council (Sept. 1) and conclusion of review (Oct. 1).
 - Failure to meet deadlines for review and recommendations on budgets, rates and levies still results in loss of budget growth.

Single County Provisions

- Miami County allowed to adjust LOIT property tax relief for pay 2012 – HEA 1072.
- Allen County coliseum administration – HEA 1072.
- Starke County CEDIT for jail construction – HEA 1072.
- Little Calumet River flood control (Lake County) – HEA 1264.
- LaPorte County assessment and tax billing – SEA 19.
- Counties able to use Hazardous Waste Disposal Tax revenue for highway construction and maintenance (Porter, Posey, Putnam Counties) – HEA 1060.
- New Johnson County court – HEA 1092.

Financial Disclosures by Local Office Candidates

- SEA 193
 - Requires a candidate for a local or school board office to file a statement of economic interests with the candidate's declaration of candidacy, petition of nomination, declaration of intent to be a write-in candidate, or certificate of candidate selection; the clerk shall reject a declaration of candidacy (or the equivalent) that does not include a statement of economic interests
 - Requires an individual who fills a vacancy in an elected local or school board office to file a statement of economic interests no later than 60 days after he/she assumes the office
 - Prohibits a commissioner or county councilor who is elected from (and must reside within) a district and who is relocated outside his/her district due to the state's acquisition of the member's residence for public use after the member begins his/her term from completing that term of office, even if the member remains a resident of the county containing the member's district; this provision is retroactive

Uncontested Municipal Offices on Ballots

- SEA 233 and HEA 1004
 - Require all nominees for each municipal office to be placed on the ballot if there is a contested election for at least one municipal office
 - Authorize a county election board (upon unanimous adoption of a resolution) to decide that an election for a municipal office not be held if there is no contest for the office; resolution expires January 1 of the next year
 - Authorize a county election board to adopt a resolution (also by unanimous vote) limiting a municipal election to the legislative body districts of the municipality where there is a contested election of members of the municipal legislative body, as long as there is not a contested election to be voted upon by all voters of the municipality

Additional Provisions of SEA 233 and HEA 1004

- SEA 233
 - Voids a candidate filing required to be made with the Election Division if the filing is made with a county election official
 - Provides that a candidate's nomination of petition is not effective unless the candidate files all required documents
 - Provides that a candidate's nomination of petition in a special election called by the governor must be filed no later than 74 (rather than the current 50) days before the election
 - Specifies that the deadline for filing a certificate of nomination to replace an independent or minor party candidate nominated by petition is noon on July 3 before election day (rather than noon on the second Tuesday in September before a general election)
- HEA 1004
 - Requires the clerk to record certain info from an absentee ballot application form in SVRS (SEA 175 contains the same provision)
 - Requires the applicable political party county chairman to fill a candidate vacancy or a vacancy in certain local offices in the event that a caucus is called to fill the vacancy and a quorum cannot be obtained

Absentee Ballots

- SEA 175
 - Requires the Election Commission to modify the absentee ballot application form to request that a voter provide the last 4 digits of his/her SSN or state that he/she does not have a SSN; form must indicate that this request is optional
 - Provides that a voter's failure to provide this info does not affect the voter's ability to receive an absentee ballot
 - Requires the clerk to record certain info from the application in SVRS (HEA 1004 contains the same provision)
 - Seeks to establish a summer study committee to study:
 - Security of mail-in absentee ballots
 - Possible interface between SVRS and files maintained by the Dept. of Revenue (using the last 4 digits of voters' SSNs)

Other Elections Bills

- SEA 115

- Technical changes/updates including adjusting census numbers in statutes and changing population parameters in statute to reflect the 2010 decennial census population count; changes in population parameters from legislation passed this year became effective April 1, 2012
- Updates multipliers that are based on a county's population and used in determining distributions made by the Dept. of Correction to county misdemeanor funds
- Many population parameters changed to individual county names

- SEA 119

- Corrects a districting problem that occurred following the 2011 House redistricting by moving three census blocks in Elkhart County from House District 48 to House District 49

Other Clerks' Bills

- SEA 18
 - Provides that child support (not including support for educational needs) ceases when the child turns 19 years old (rather than the current 21 years old); effective July 1, 2012
 - Permits a child who is receiving child support under an order issued before July 1, 2012, to file a petition for educational needs until the child becomes 21 years old; specifies that a child who is receiving child support after July 1 may petition until the child becomes 19 years old
- SEA 249
 - Allows a clerk to forward a marriage record to the Department of Health in paper form or in electronic form using an automated system developed by JTAC or another automated system approved by the Department of Health
 - States that a clerk who forwards a marriage record to the Department of Health in electronic form is not required to forward the marriage record in paper form

Flat Fees for Recorded Documents

- HB 1261
 - Established flat fees for certain recorded documents such as mortgages and deeds
 - Later versions of the bill removed language that:
 - Required tax sale certificates to also be recorded in the recorder's office
 - Established a \$25 "penalty" fee for nonconforming documents
 - Bill was pulled from Second Reading in the House and died during the first half of session

Other Recorders' Bills

- SEA 298
 - Provides that if the record of a mortgage/lien does not show the due date of the last installment and the execution date is omitted from the mortgage/lien, then the mortgage/lien expires 10 years (instead of the current 20 years) after the mortgage/lien is recorded
 - Provides that if the record of a mortgage/lien does not show the due date of the last installment, the original mortgagee or owner of the mortgage/lien may file an affidavit with the recorder stating when the debt is due, and the recorder must note in the record of the mortgage/lien that an affidavit has been filed and show the location where the affidavit is recorded; this “shall” provision for the recorders was already in statute
- SB 160
 - Died during the first half of session (did not get an initial committee hearing)
 - Required the records perpetuation fund (in addition to other local funds) to be appropriated by the county council

****Flat fees, use of the records perpetuation fund, and appropriation of the perpetuation fund are issues that may resurface next session****

Drainage Boards

- HB 1349
 - Died in conference committee
 - Original provisions:
 - Required a county drainage board to include every tract of land within a watershed affected by the construction, reconstruction, or maintenance of a drain in assessing benefits or damages to land under certain IC provisions
 - Provided that a mutual or private drain may be a natural surface watercourse (for purposes of the drainage law)
 - Allowed a county drainage board to use all or part of interest generated from the general drain improvement fund or other maintenance funds to fund MS4 items (storm water projects)
 - Conference committee version only included a provision assigning the topic of drainage laws to the water resources summer study committee

Other Surveyors' Bills

- HEA 1148
 - Allows exams for certification as a land surveyor (or land surveyor in training) to be computer-based
 - Removes requirements for the duration of those exams
- SEA 311
 - Requires the Office of Management and Budget to prepare for each administrative rule that has been adopted (and has taken effect after December 31, 2011) a cost benefit analysis of the first three years following the rule's effective date