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2023 LAWS AFFECTING SPECIAL DISTRICTS

The following is a listing of laws enacted by the General Assembly that are related to special districts. This is not intended to be an expression of a legal opinion. If you have any questions regarding legal interpretation, please consult your attorney. We have listed the laws in public law number sequence and the references are to the Indiana Code.

HB1001 STATE BUDGET (THOMPSON J) Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes. Requires a researcher to execute a data sharing agreement that is approved by the management performance hub to receive access to confidential records. Provides that the auditor of state is also known as the state comptroller. Provides that, after June 30, 2023, the auditor of state shall use the title "state comptroller" in conducting state business, in all contracts, on business cards, on stationery, and with other means of communication as necessary. Establishes the attorney general contingency fee fund. Establishes the: (1) state opioid settlement fund; and (2) local opioid settlement fund; into which funds received from opioid litigation settlements must be deposited. Provides that the office of the inspector general shall provide informal advisory opinions and that the opinions are confidential. Allows the budget committee to submit the budget report and budget bill or bills to the governor on or before the second Monday of January, or the third Monday of January in the year in which a gubernatorial election is held (instead of before that date). Requires the state personnel department to require a contractor, when contracting for health care coverage for state employees, to use value based coverage. Repeals a provision that makes a state general fund appropriation to the board of trustees of the Indiana public retirement system if the money available in the special death benefits fund is insufficient to pay death benefit claims. Allows the Indiana economic development corporation (IEDC) to certify an applicable tax credit that exceeds the maximum allowable amount after review by the budget committee. Provides that the regional economic acceleration and development initiative program expires June 30, 2026. Specifies that the county or municipality that did not approve the relocation of an outdoor advertising sign is responsible for compensation of the taking of the outdoor advertising sign. Provides that an owner may relocate an outdoor advertising sign that is subject to a pending eminent domain action. Allows an individual to claim an increased exemption amount for a dependent child in the first year in which the exemption amount may be claimed for the child. Reduces the individual income tax rate to 2.9% by 2027 and eliminates all trigger provisions in current law. Establishes the regional public safety training fund. Repeals provisions relating to the establishment of the: (1) Indiana homeland security foundation; (2) Indiana homeland security fund; and (3) fire training infrastructure fund. Allows certain members of the public employees' retirement fund or Indiana state teachers' retirement fund to file an election to begin receiving retirement benefits while holding a position. Changes the state police pre-1987 benefit and supplemental pension benefit calculation from being based on the sixth year of service to the fourth year of service. Repeals the public mass transportation fund. Repeals the financial responsibility compliance verification fund. Changes the number of years of service on which the salary matrix for state police employees is based to 15 years (instead of 20 years). Requires the department of correction to deposit the amount appropriated for the county misdemeanor fund by a county's multiplier. Requires the office of Medicaid policy and planning (office) to: (1) develop a schedule for the review of Medicaid reimbursement rates; and (2) provide a copy of the schedule to the budget committee; not later than November 1, 2023. Creates the residential water testing

fund to test the water supply of an individual property owner of an eligible township. Requires the director of the state personnel department to submit a revision or adjustment to a pay plan developed for state employees to the state budget committee for review before the revision may take effect. Provides that the general assembly shall convene: (1) on the second Tuesday after the first Monday in June for the first regular technical session; and (2) on the second Tuesday after the first Monday in May for the second regular technical session. Provides that a technical session is not required to convene if the president pro tempore and the speaker jointly issue an order that convening is not necessary. Requires the general assembly to convene no later than the fourth Monday in January after organization day. Repeals provisions relating to emergency sessions and makes conforming amendments. Recouples the state earned income tax credit qualifications with the federal earned income tax credit qualifications under the Internal Revenue Code as in effect January 1, 2023. Requires a contractor that provides tangible personal property incorporated into real property in a project located in an innovation development district to maintain records of all state gross retail and use tax paid or collected during a state fiscal year. Adds state adjusted gross income taxes paid by an individual who is not an employee with respect to income received for services performed in an innovation development district for purposes of calculating income tax incremental amounts. Establishes the commission on improving the status of children fund to support the staffing and operations of the commission. Provides that a part of state user fees shall be deposited in the Indiana secured school fund. Repeals the distribution schedule for appropriations made for certain child development programs. Requires the department of local government finance to prepare an annual report and abstract concerning property tax data (instead of the auditor of state). Deletes reimbursement rate parameters for reimbursement of managed care organizations under the healthy Indiana plan. Extends the sunset of the collection of hospital assessment fees and health facility quality assessment fees from June 30, 2023, to June 30, 2025. Increases the total number of adult learner students at the Excel Centers for Adult Learners and Christel House DORS centers for whom the school may receive state funding. Establishes the Indiana education scholarship account donation fund to accept donations for administration of the Indiana education scholarship account program. Repeals the special education fund. Establishes a state tax credit for a taxpayer that makes certain qualified child care expenditures in providing child care to the taxpayer's employees. Extends provisions for the gasoline tax and the special fuel tax rates. Amends a statute concerning powers and duties of a regional water, sewage, or solid waste district established under prior law. Extends the sunset for the invasive species council and fund from July 1, 2023, to July 1, 2031. Prohibits school corporations and charter schools from charging a fee for curricular materials to students. Provides that the parent of a student or an emancipated minor who attends an accredited nonpublic school and who meets financial eligibility requirements may request reimbursement of fees charged for curricular materials. Establishes the curricular materials fund. Requires a county auditor to distribute a portion of revenue received from an operations fund levy imposed by a school corporation located in certain counties to certain charter schools (excludes school corporations that are designated as a district).

HB1041 STATE BOARD OF ACCOUNTS (LEHMAN M) Provides that the state board of accounts (SBOA) is designated as the independent external auditor of audited entities and is subject to applicable professional accounting standards. Requires annual reports to be prepared, verified, and filed with the state examiner as set forth in the uniform compliance guidelines. Requires all appointments of field examiners be made solely upon the ground of fitness in accordance with professional accounting and auditing standards. Provides that if an examination of an audited entity is unable to be performed because the audited entity's accounts, records, files, or reports are not properly maintained or reconciled, the audited entity may be declared to be unauditible. Provides that an audited entity that is declared unauditible shall bring its accounts, records, files, or reports into an auditible condition within 90 days. Requires the SBOA to publish a list of audited entities declared unauditible on its website. Revises conditions under which the state examiner may undertake an examination based on a violation of the law. Requires the SBOA to approve a request by an audited entity to opt out of examinations and engage a certified public accountant to conduct examinations if, within the last six years, the SBOA has not issued an examination or special investigation report critical of the audited entity's internal controls and there have been no adverse reports. Provides that the SBOA may terminate its approval of the use of a certified public accountant if certain requirements are not met. Revises the provision regarding field examiner traveling expenses. Makes changes to certain reporting, resolution, and disclosure requirements. Simplifies the provision regarding parties and a plaintiff's right of recovery. Removes provisions regarding additional powers of the state examiner and attorney general. Provides that if the attorney general brings an action against an official bond, official bonds, or a crime insurance policy, the cause may be brought in the name of the state of Indiana upon the relation of the attorney general as plaintiff. Repeals a provision regarding the withdrawal or removal of counties from solid waste management districts. Repeals a provision regarding bonds and crime policies for faithful performance. Repeals a provision regarding examination reports, requisites, performance of public works, and SBOA powers. Repeals a provision regarding copies of reports filed with libraries, public inspections, and request renewals. Makes technical and conforming changes.

HB1167 LIVE STREAMING AND ARCHIVING MEETINGS (SMALTZ B) Requires governing bodies of state and local agencies (excluding a state supported college or university) to provide, on a publicly accessible platform: (1) live transmissions of public meetings; and (2) an archive of copies of the live transmissions with links to any meeting agendas, minutes, or memoranda. Provides that if a governing body does not have Internet capability for live transmission of public meetings, the governing body shall record the meeting. Provides that transmissions and recordings of public meetings may be destroyed after 90 days.

HB1256 ARCHIVES AND RECORD ADMINISTRATION (PIERCE M) Amends related definitions. Allows the attorney general to retain and publish records and opinions in electronic format. Amends various duties for the Indiana archives and records administration (administration). Removes the requirement that the administration follow procedures and forms prescribed by the federal government in implementing a forms management program. Requires the administration to establish standards for the design, redesign, numbering, standardization, consolidation, or elimination of forms used by state government. Provides that the administration must apply the definition of "record" to certain governmental materials. Requires a state agency to do the following: (1) Submit recommended retention schedules to the administration. (2) Follow the standards developed by the administration when creating and revising state forms. (3) Designate an agency forms coordinator to manage the creation and revision of state forms belonging to the agency and serve as a liaison between the agency and the administration. (4) Designate an agency records coordinator to coordinate the creation and revision of agency records retention schedules, educate agency staff on records management processes, and serve as a liaison between the agency and the administration. Removes certain duties of the oversight committee on public records. Makes conforming changes.

HB1336 VARIOUS ELECTION LAW MATTERS (WESCO T) Adds the U.S. Space Force to the definition of "uniformed services" in election law. Provides that electronic signatures may be used for the reporting of campaign contributions and expenditures. Provides that election form approval procedures do not apply to a form incorporated only into the statewide voter registration system. Makes other technical changes relating to approval of election forms. Provides that a statute prohibiting the use of the circuit court clerk's name on a ballot if the clerk is a candidate for an office on the ballot does not apply if the only office for which the individual is a candidate is a political party office. Requires a candidate to specify on the candidate's candidacy document each designation that the candidate wants to use on the ballot. Requires the election division to design all candidacy documents so that the form of the document enables the candidate to insert in a separate field of the document each of the separate designations that a candidate is permitted to use under election law. Provides that an individual is considered to have resigned as an elected official of a unit when the person becomes an employee of the unit the individual serves as an elected official. Provides that certain mailings required by election law be sent by first class mail with tracking rather than by certified mail. Provides that a statute that permits removal and fining of a precinct election officer who fails to perform duties is applicable to an absentee voter board member and to an absentee ballot counter. Authorizes a county election board to permit individuals who are candidates for certain political party offices and relatives of such individuals to serve as precinct election officers if the county election board finds that enough individuals are not available to serve as precinct election officers. Requires the bureau of motor vehicles commission to forward the voter registration part of an application and any declination to register to the election division for transmittal to the appropriate county voter registration office. Adds law enforcement agencies that receive voter registrations to the list of voter registration agencies that are not subject to certain requirements relating to filing voter registration applications. Provides that the statewide voter registration system must contain a feature that identifies potential nonresidential addresses submitted on voter registration applications. Provides additional procedures for updating a copy of a voter's original signature in the statewide voter registration file. Adds judges of city and town courts to the list of officials that must file a statement of economic interest before filing a candidacy document. Provides that an officeholder is not entitled to salary until a statement of economic interest is filed, if required. Provides that, for purposes of determining whether a candidate is affiliated with a particular major political party, the candidate must have voted in that party's two most recent primary elections. (Under current law, a candidate is required to have voted in the political party's most recent primary election.) Provides that if an election district is included entirely within one precinct, and does not include the entire precinct, the petition of nomination must be signed by at least five voters of the election district. Provides that if a special election to fill a vacancy in the office of United States Representative is held on the same day of the election to elect the individual to serve in the succeeding term, an individual may appear on the ballot as a candidate in both elections. Provides that in such an election for United States Representative, the ballot must list the election to fill the office vacancy immediately after the election for the next term of the office. Requires the chair of a political committee to file a final report for a treasurer if the treasurer has died or is otherwise unable to file the report. Provides that the statute requiring reporting of "large" campaign contributions does not require the reporting of a contribution unless it is accepted by the candidate's candidate committee. Provides language for printing on ballots when no candidate has filed for the office. Eliminates the requirement that counties send duplicate copies of state election returns to the election division. Provides that a county executive is not required to establish precincts so that a precinct contains not more than 2,000 active voters or 2,300 active voters if the precinct is in a county designated as a vote center county. Provides that in addition to precinct boundaries, the name of a precinct as included in the federal decennial census data becomes the official name of the precinct. Requires that a ballot be arranged so that all candidates for the same office appear on the same page or the same screen. Permits the use of an electronic device at a precinct or vote center to display a sample ballot. Provides procedures for ballot layout when a candidate dies or is no longer eligible to appear on the ballot. Requires a circuit court clerk who receives an absentee ballot application from a voter who is not registered to vote in the county to send the application to the circuit court clerk of the county in which the voter is registered. Provides that the designation of a voter as an absent uniformed services voter, an overseas voter, or a voter with print disabilities expires January 1 after such a voter has submitted an absentee ballot application indicating such designation. Provides that, after December 31, 2024, all absentee ballots must be printed on security paper that

incorporates features that can be used to authenticate the ballot. Provides that a voter must file residence documentation before 6 p.m. on election day. Provides that only the individuals who are permitted to be in the polls on election day are permitted to be in the room where early absentee voting is occurring. Provides that a county election board may send a signed form from a public test to the election division by electronic mail or fax. Provides that an application fee for certification of a voting system does not apply if the application is for a de minimis change. Authorizes the repurposing of an electronic poll book unit as a device to display sample ballots if the electronic poll book software is deleted from the unit. Requires absentee ballot counters to begin counting absentee ballots beginning at 6:00 a.m. on election day if certain conditions are met. Provides that if there is a discrepancy on political party primary ballot choice between the federal write-in absentee ballot and the federal post card application, the federal post card application supersedes the federal write-in absentee ballot. Provides that if an individual who holds a local office is elected to another term in that office and subsequently dies or is disqualified before the next term is scheduled to begin, a vacancy is created that must be filled as otherwise provided by law. Adjusts the schedule for conducting a post-election audit if a contest or recount has been filed affecting the county. Provides that a notice of death of a local office holder is required to be filed only with the circuit court clerk. (Under current law, notice must also be filed with the prosecuting attorney.) Exempts a member of a fiscal or legislative body from assuming certain duties during a vacancy. Requires a magistrate to depose

HB1402 SEWAGE MATTERS (PRESSEL J) Provides that a wastewater utility that is not subject to the jurisdiction of the Indiana utility regulatory commission (commission) and that receives wholesale wastewater service from another wastewater utility may not: (1) disconnect from wholesale wastewater service provided by the other wastewater utility; and (2) construct a new wastewater treatment plant to serve its customers; unless the wastewater utility obtains the approval of the commission. Requires: (1) a regional sewage district; or (2) certain municipalities; at least 90 days before requiring the connection of a property to a sewer system and the discontinuance of use of the property's septic system, to notify the property's owner about a statutory exemption from the requirement to connect to the sewer system that may apply to the property. Requires the Indiana department of health to update: (1) all matters incorporated by reference in the Indiana department of health rules concerning residential onsite sewage systems (the rules); and (2) all industry standard practices reflected in the rules; upon the recognition of new bulletins, standards, specifications, and industry standard practices that supersede the bulletins, standards, specifications, and industry standard practices incorporated by reference or otherwise reflected in the rules. Provides that the technical review panel must approve the updates before the Indiana department of health may update the rules. Provides that a county, city, or town ordinance that would restrict or prohibit the use of technology new to Indiana that has been approved by the technical review panel or that would otherwise vary from the rules: (1) if adopted after June 30, 2023, is not effective unless it is submitted to and approved by the technical review panel; and (2) if adopted before July 1, 2023, becomes void and unenforceable on July 1, 2023. Allows such an ordinance: (1) to be readopted by the legislative body of the county, city, or town; and (2) to be submitted to and approved by the technical review panel. Prohibits the installation of a residential onsite sewage system less than 25 feet from the edge of a sinkhole. Provides that an ordinance adopted by a local health department requiring an inspection of a septic system that is more stringent than the Indiana department of health's rule concerning residential onsite sewage systems is void and unenforceable. Provides that if a qualified professional listed in this bill has approved the design and specifications for the residential onsite sewage system, the local health department shall issue a permit for the residential onsite sewage system not more than 30 business days after receiving a complete application for the permit. Provides that a residential onsite sewage system may be installed in a lot meeting a certain description if at least one site on the lot is determined to be suitable for the installation of the residential onsite sewage system. Prohibits an employee of a local health department from entering a property to inspect a residential onsite sewage system: (1) if qualified professional listed in the bill has notified the local health department within the preceding 180 days that the residential onsite sewage system is functioning properly; or (2) if the owner or occupant has not been notified of the inspection by first class mail at least seven days before the inspection date. Provides the procedures for an owner or occupant of a property in which the local health department has determined that a residential onsite sewage system is in failure to receive a second opinion in order to withdraw the local health department's order. Provides that an individual who: (1) is registered with at least one Indiana county to provide onsite sewage system service; and (2) is certified as an inspector or installer by the Indiana Onsite Wastewater Professionals Association is entitled to provide onsite sewage system service in any county in Indiana, but may be required to pay a county license or registration fee before providing onsite sewage system service in a county other than the county in which the individual is licensed.

HB1417 UTILITY DEFERRED COSTS AND ACCOUNTING PRACTICES (SOLIDAY E) Amends the Indiana Code provision concerning a system of accounting for public utilities to provide the following: (1) That a public utility, municipally owned utility, or not-for-profit utility may defer for consideration by the Indiana utility regulatory commission (IURC) and for future recovery costs incurred or to be incurred in a regulatory asset, to the extent that the specific costs are incremental and are not otherwise already included for recovery in the utility's rates. (2) That preapproval of the IURC is not required for the creation of a regulatory asset. (3) That a public utility, municipally owned utility, or not-for-profit utility may recover through the utility's rates over a reasonable period, as determined by the IURC, costs that are: (A) deferred under these provisions; and (B) found to be reasonable and prudent by the IURC. Amends the Indiana Code provision concerning a public utility's depreciation account and depreciation rates to

provide the following: (1) That depreciation rates shall be calculated to recover a reasonable estimate of the future cost of removing retired assets of the public utility. (2) That in a proceeding in which the costs of a capital asset are being recognized for ratemaking purposes, a public utility may account for any asset retirement obligations and recover, through rates charged to customers, reasonably and prudently incurred costs associated with asset retirement obligations, to the extent the specific asset retirement obligation costs are incremental and have not been included in depreciation rates. (3) That the IURC shall make changes in a public utility's depreciation rates as necessary to reflect changes in: (A) the public utility's estimated asset retirement costs, including all reasonable and prudent costs of removing retired assets; and (B) the estimated retirement dates of the public utility's assets. Amends the Indiana Code chapter concerning federally mandated requirements for energy utilities to specify that recovery of the 80% of IURC-approved federally mandated costs that an energy utility may recover through a rate adjustment mechanism must commence no earlier than: (A) the date of a final agency action regarding the federally mandated requirement; or (B) in the absence of a final agency action, the date on which the federally mandated requirement becomes effective.

HB1438 PUBLICATION OF LOCAL GOVERNMENT NOTICES (MILLER D) Provides that a towing service is subject to the same public notice advertising rates as a government agency if the service: (1) acts as an agent of a government agency; and (2) provides the notice required to dispose of abandoned vehicles or parts. Provides for the creation of a public notice task force (task force) to study notice publication statutes for the purpose of streamlining the process and maximizing value to Indiana citizens. Provides the following: (1) The task force must publish a report with its determinations and recommendations for legislation not later than December 1, 2023. (2) The task force expires December 31, 2023.

HB1454 DEPARTMENT OF LOCAL GOVERNMENT FINANCE (SNOW C) Provides that the term of any judgment funding bond with regard to either: (1) the city of Hobart; or (2) the Merrillville Community School Corporation; issued for the purpose of paying a property tax judgment rendered against Lake County for assessment year 2011, 2012, 2013, or 2014 shall be 25 years. Changes the sunset date for the procedure for selling certain bonds to July 1, 2025, and makes corresponding changes. Adds nonprofit building corporations created by a municipal corporation to a provision concerning the purchase of municipal securities by the treasurer of state and provides that such a security must have a stated final maturity of not more than 25 years after the date of purchase. Specifies expenses eligible for funding from the READI fund. Prohibits the department of local government finance from approving a county reassessment plan before the assessor provides verification that the land values determination has been completed. Removes language from a statute allowing a taxpayer to elect a special property tax valuation method for mini-mill equipment that prohibited the election if any outstanding bond obligations would be impaired as a result of the election. Requires an assessor determining land values to submit the values to the county property tax assessment board of appeals (PTABOA) and the department. Establishes procedures for rental property assessment appeals. Makes changes to a provision granting a property tax exemption to cemetery owners. Requires the land of controlled environment agriculture property to be classified and assessed as agricultural and the improvements to be classified and assessed as an agricultural greenhouse for property tax assessment. Prohibits a PTABOA determination of assessed value following a hearing that exceeds the original appealed assessed value at issue. Provides that a qualified taxing unit located in Lake County that has experienced a property tax revenue shortfall in one or more tax years: (1) resulting from erroneous assessed valuation figures; and (2) which was, or will be, at least \$5,000,000, or 20% of its net tax levy, as a result of the erroneous assessed valuation amount; may apply to the treasurer for a loan from the countercyclical revenue and economic stabilization fund. Describes procedures, limitations, and uses for such loans. Limits the amount of loans to all qualified taxing units to \$35,000,000. Prescribes a formula for determining a population growth of 150% for purposes of the exclusion from maximum ad valorem property tax levy limits for municipalities that meet specified criteria. Makes changes to statutes concerning maximum property tax levies for: (1) Sugar Creek Township Fire Protection District; and (2) Otter Creek Township. Amends an exclusion from the definition of "controlled project" for projects required by a court order. Extends through 2026 the authority for certain school corporations to allocate circuit breaker credits proportionately but imposes limitations with respect to school corporation eligibility to allocate such credits. Repeals the provision establishing the division of data analysis of the department. Prohibits a county auditor from denying an application for a standard deduction for a homestead because the applicant does not have a valid driver's license with the address of the homestead property. Provides that when a county auditor submits a certified statement of assessed value to the department, the county auditor shall exclude the amount of assessed value for any property located in the county for which an appeal has been filed and for which there is no final disposition. Provides that a county auditor may appeal to the department to include the amount of assessed value under appeal within a taxing district for that calendar year. Provides for the expiration of certain supplemental county property tax levy provisions on the later of: (1) January 1, 2045; or (2) the date on which all bonds or lease agreements outstanding on July 1, 2023, for which a pledge of tax revenue is completely paid. Imposes reporting and publication requirements for those bonds and leases. Removes the requirement that a PTABOA quorum must include at least one certified level two or level three assessor-appraiser. Prescribes additional duties for the department. Provides that the distressed unit appeal board (DUAB) may employ staff (instead of an executive director). Provides that the department may (instead of shall) support the DUAB's duties using money from the department's budget funding. Repeals provisions requiring the DUAB to pay the emergency manager's compensation and to reimburse the emergency manager for actual and necessary expenses. Repeals the fiscal and qualitative indicators committee (committee). Replaces references to the committee with references to the DUAB.

Provides that, in the assessment of tangible property, confidential information may be disclosed to an official or employee of a county assessor or auditor. Provides that the required annual visit between a representative of the department and each county may take place virtually. Requires a township or county assessor to document any changes made to the parcel characteristics of real property from the previous year's assessment in an assessment of the real property. Provides that a township may elect to establish a township firefighting fund and a township emergency services fund in lieu of the township firefighting and emergency services fund. Provides that the excess of the proceeds of the property taxes attributable to an increase in the property tax rate for a participating unit of a fire protection territory that is established after the establishment of a tax increment financing area located outside of Marion County shall be allocated to and distributed in the form of an allocated property tax revenue pass back to the participating unit of the fire protection territory and not to the redevelopment district. Provides that the fiscal body of a county may adopt an ordinance to establish a property tax amnesty program and require a waiver of interest and penalties added before January 1, 2023, on delinquent taxes and special assessments on real property in the county if certain conditions are met. Amends provisions excluding the part of a participating unit's proceeds of property taxes imposed in certain tax increment finance areas for an assessment date with respect to which the allocation and distribution is made that are attributable to property taxes imposed to meet the participating unit's obligations to a fire protection territory. Reduces the fee, from 15% to 10%, that the department of state revenue may charge a debtor for any debts collected as a collection fee for the department's services, not including local collection assistance fees. Establishes a tax credit for an eligible taxpayer that employs certain individuals with a disability. Provides that contributions to a 529 college savings account or 529A ABLE account made after December 31, 2023, shall be considered as having been made during the taxable year preceding the contribution if certain conditions are met. Beginning in taxable year 2024, allows the Indiana economic development corporation to award a qualified taxpayer a historic rehabilitation tax credit equal to 25% or 30% of the qualified expenditures incurred in the restoration and preservation of a qualified historic structure, depending on the type of historic structure.

HB1499 VARIOUS TAX MATTERS (THOMPSON J) Makes certain changes to the qualification requirements for the: (1) deduction for individuals who are at least 65 years of age; and (2) additional credit for certain homesteads. Increases the amount of the supplemental homestead deduction for property taxes first due and payable in 2024 and 2025. Provides that if a taxpayer presents an appraisal to the county property tax assessment board of appeals (county board) that meets specified requirements, the appraisal is presumed to be correct. Provides that if the county board disagrees with the taxpayer's appraisal, the county board may seek review of the appraisal or obtain an independent appraisal. Provides that after the assignment of value, the parties shall retain their rights to appeal to the Indiana board of tax review. Provides that, notwithstanding any increase in assessed value of property from the previous assessment date, the total amount of operating referendum tax that may be levied by a school corporation for taxes first due and payable in 2024 may not increase by more than 3% over the maximum operating referendum tax that could be levied by the school corporation in the previous year. Provides a calculation to be used in determining the maximum levy growth quotient in 2024 and 2025. Modifies, through December 31, 2024, the threshold amounts used for determining whether a political subdivision's project is a controlled project and whether the petition and remonstrance process or the referendum process applies based on the political subdivision's total debt service tax rate, but excludes certain projects for which a public hearing to issue bonds or enter into a lease has been conducted before July 1, 2023. Creates an exception, through December 31, 2024, to a provision subjecting a controlled project in a political subdivision with a total debt service rate of \$0.80 per \$100 of assessed valuation to the referendum process, if: (1) the political subdivision submits a request to the department of local government finance (DLGF) seeking a waiver of the provision; (2) the proposed controlled project is a response to a maintenance emergency; and (3) the DLGF determines that the maintenance emergency is sufficient to waive the provision. Amends an exclusion from the definition of "controlled project" for projects required by a court order. Authorizes a county fiscal body to adopt an ordinance to provide property tax relief for property tax liability attributable to homesteads for qualified individuals. Provides that a county may adopt a resolution to require a local income tax supplemental distribution to first be distributed and used to lower the county's levy freeze tax rate. Requires the DLGF to approve a county's request to decrease its levy freeze tax rate if the DLGF finds that the lower rate, in addition to the supplemental distribution amount determined under the resolution adopted by the county, would fund the levy freeze dollar amount. Requires the department of state revenue (department) to annually provide each resident individual taxpayer who paid adjusted gross income taxes in the immediately previous taxable year a taxpayer receipt statement in an electronic format explaining how the individual taxpayer's taxes are being used. Requires the department, in consultation with the budget agency, to create and administer an Internet web page on which individual taxpayers may access an estimate of the allocation of their adjusted gross income taxes to various expenditure categories for the most recent state fiscal year based on the adjusted gross income taxes paid by the taxpayer. Specifies the information that must be provided on the web page. Defines "maintenance emergency". Makes conforming changes.

HB1639 WATERSHED DEVELOPMENT COMMISSIONS (AYLESWORTH M) Provides that the executives of one or more counties may adopt ordinances designating their counties as members of a proposed watershed development commission and that the proposed watershed development commission is established as a legal entity with the counties as its members if it is recognized by the natural resources commission. Allows a watershed development commission to be established for certain flood damage reduction, drainage, storm water management, recreation, and water infrastructure purposes, but provides that "water infrastructure purposes" excludes any drinking water project in a county or municipality. Requires the natural resources commission, in deciding whether to recognize a proposed watershed development commission, to answer certain questions. Provides that a nonmember county may become a member of an established watershed development commission if its membership is accepted by the member counties and recognized by the natural resources commission. Requires the department of natural resources (department), with the approval of the natural resources commission, to certify the area of a member county that is within a watershed development commission's designated watershed. Provides that a watershed development commission may also have water quality purposes if its board develops a water quality improvement plan that is approved by the natural resources commission. Specifies that a water quality purpose, goal, project, or interstate agreement does not convey water quality regulatory authority to a watershed development commission. Provides for a watershed development commission to be governed by a board that includes: (1) the director of the department or the director's designee; (2) the county surveyor of each county that is a member of the commission and is entitled to membership on the board; (3) an individual other than the county surveyor representing each county that is a member of the commission and is entitled to membership on the board; and (4) either: (A) one individual appointed to represent each second class city that is located in a participating county and within the designated watershed of the watershed development commission; or (B) if a participating county does not include a second class city that is located within the designated watershed of the watershed development commission, one individual appointed to represent the municipality that has the largest population of all municipalities that are located in the participating county and within the designated watershed of the watershed development commission. Requires a watershed development commission to develop a flood damage reduction and drainage plan for its designated watershed. Grants a watershed development commission exclusive authority to perform drainage and flood damage reduction activities within the channel of the river that is the surface water outlet of its designated watershed. Authorizes a watershed development commission to enter into an interlocal cooperation agreement with an existing local governmental authority to apportion flood damage reduction authority and financial support between the two entities. Provides for the funding of a watershed development commission through an annual special assessment that may be imposed against each taxable parcel of real property located: (1) in a member county; and (2) within the designated watershed of the watershed development commission. Establishes maximum assessment levels and allows the board of a watershed development commission to reduce the special assessment to lower levels. Authorizes a member county to adopt any of three alternative methods of funding the watershed development commission. Prohibits the use of money collected from a special assessment for highway bridge repairs or reconstruction. Authorizes a watershed development commission to give preference to an Indiana business over an out-of-state business in contracting for public works. Establishes a procedure under which the Maumee River basin commission, the St. Joseph River basin commission, or the Upper Wabash River basin commission may be transformed into a watershed development commission. Provides that if the St. Joseph River basin commission is transformed into a watershed development commission, the members of the St. Joseph River basin commission become the first members of the St. Joseph River watershed development commission's advisory committee.

SB46 COUNTY OPTION CIRCUIT BREAKER TAX CREDIT (SANDLIN J) Authorizes a county fiscal body to adopt an ordinance to provide a credit against property tax liability for qualified individuals. Defines a "qualified individual" for purposes of the credit. Provides that the ordinance may designate: (1) all of the territory of the county; or (2) one or more specific geographic territories within the county; as a neighborhood enhancement district in which qualified individuals may apply for the credit. Provides that the amount of the credit in a particular year is equal to the amount by which an individual's property tax liability increases by more than the percentage of increase specified by the county fiscal body from the prior year. Provides that the credit does not affect the allocation of taxes to a referendum fund. Requires a qualified individual who desires to claim the credit to file a certified statement with the county auditor. Provides that the county auditor shall apply the credit in succeeding years after the certified statement is filed unless the auditor determines that the individual is no longer eligible for the credit or the county fiscal body rescinds the ordinance. Provides a penalty for wrongly receiving the credit that is the same as the penalty for wrongly receiving the homestead standard deduction. Provides that an individual may not receive both a county option circuit breaker tax credit and an over 65 property tax credit in the same year. Provides that an ordinance must specify that the credit does not apply for property taxes first due and payable after December 31, 2027. Sunsets the county option on January 1, 2028.

SB187 PUBLIC SAFETY MATTERS (SANDLIN J) Provides that a unit shall provide by ordinance the number of police reserve officers a law enforcement agency may appoint. Provides that the law enforcement training board may revoke, suspend, modify, or restrict a document showing compliance and qualifications for a unit's police reserve officer who has committed misconduct. Provides that a law enforcement agency hiring a police reserve officer must contact every other law enforcement agency that employed (or employs) the applicant and request the applicant's employment file and disciplinary record. Provides that a special law enforcement officer employed by the city of Indianapolis full time after June 30, 2023, to perform park ranger duties (park ranger) is subject to the same training requirements as regular law enforcement officers. Provides that the facilities of the Indiana law enforcement academy must be used to provide a park ranger with the required basic training.

SB317 CONTRACTING AND PURCHASING (ZAY A) Provides that a political subdivision may make advance payments to contractors to enable the contractors to purchase materials needed for a public works project of the political subdivision. Provides that a political subdivision may make advance payments for goods or services before the goods are delivered or services are completed if the fiscal body of the political subdivision authorizes advance payments.

GARNISHMENT OF SALARIES AND WAGES

An employer who is required to make deductions from an employee's pay due to a garnishment order may impose a fee equal to the greater of twelve dollars (\$12) or three percent (3%) of the total amount deducted.

If the fee is imposed, one-half may be deducted directly from the employee's pay and one-half may be retained by the employer from the amount otherwise due the creditor. These deductions do not increase the amount of the judgment debt for which the fee is collected.

We suggest you have your attorney review IC 24-4.5-5-105 and also refer them to several Attorney General official opinions (Numbers 72-10, 80-7, and 80-29) on this same subject

INTEREST ON PUBLIC CONTRACTS WHEN NOT PAID TIMELY

IC 5-17-5 provides that every "political subdivision shall pay a late payment penalty at the rate of one percent (1%) per month on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel whenever . . . the political subdivision fails to make timely payment."

Payment made by a political subdivision is timely if:

- (1) a date for payment is not specified in an applicable contract;
- (2) a claim;
 - (A) for payment for goods or services; and
 - (B) that must be approved by a local legislative body or board; is submitted to the body or board; and
- (3) the political subdivision pays the claim within thirty-five (35) days following the first regularly scheduled meeting of the body or board that is held at least ten (10) days after the body or board receives the claim.

The interest requirement does not apply to the following:

- (1) Interagency or intergovernmental transactions.
- (2) Amounts payable to employees or prospective employees of state agencies or political subdivisions as reimbursement for expenses.
- (3) Claims subject to a good faith dispute, if before the date of timely payment notice of the dispute is:
 - (A) sent by certified mail;
 - (B) personally delivered; or
 - (C) sent in accordance with the procedure in the contract.
- (4) Contracts entered into before September 1, 1983.
- (5) Contracts related to highway or road construction, reconstruction, or maintenance, if:
 - (A) the Indiana Department of Transportation authorizes partial progress payments under IC 8-23-9-14; and
 - (B) each progress payment does not exceed five hundred dollars (\$500).
- (6) Claims, contracts, or projects that are to be paid for exclusively with federal funds.

As used in IC 5-17-5-2(a)(3), "good faith dispute" means:

 - (i) a contention by the state or political subdivision that goods delivered or services rendered were:
 - (a) of less quantity or quality than ordered or specified by contract;
 - (b) faulty; or
 - (c) installed improperly; or
 - (ii) any other reason giving cause for the withholding of payment by the state or political subdivision until such dispute is settled.

WASTEWATER UTILITY DEPOSITS

For those special districts that require wastewater utility deposits, the amount of the deposit required may not exceed the average payment due from the property served by the sewage works for a three (3) month period. A wastewater utility is not required to pay interest on any amounts refunded and a wastewater utility may retain any deposits remaining for more than seven (7) years after termination of service. (IC 36-9-23-28)

AFFORDABLE CARE ACT PENALTIES, FINES, OR TAX

The State Board of Accounts has received many questions regarding our position with regards to the Affordable Care Act. Most of the questions have inquired specifically about the penalties, fines, or tax associated with this law. While our general audit guidelines prohibit the paying of penalties and interest and states that those payments would be a personal charge to the fiscal officer, administrator, or board, we do not believe this general guideline should apply to this controversial, mandated, and complicated law.

We also believe that the governing boards should be making the fiscal decisions associated with their unit of government and the implementation of this law. Therefore, if the fiscally wise decision of the board is to pay the penalties, fines, or tax instead of the cost of the insurance then we will not personally charge the officials involved. One of the conditions necessary to not charging the penalties, fines, or tax is to have the governing board officially document their decision to not comply with the Affordable Care Act. This could be a motion in the board minutes, a resolution, or an ordinance.

In summary, as long as there is an official action of the board to choose to pay the fines, penalties, or tax, the State Board of Accounts will not personally hold anyone in that unit of government accountable for reimbursing the cost of those penalties, fines, or taxes.

PAYMENT OF CLAIMS - ELECTRONIC FUNDS TRANSFER

The fiscal body of a special district may adopt a resolution to authorize an electronic funds transfer method of payment of claims. If the proper body adopts a resolution, the special district may pay money from its funds by electronic funds transfer.

A special district that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by political subdivisions or municipal utilities.

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. [IC 36-1-8-11.5]

ISSUING DUPLICATE WARRANTS

When a special district warrant is lost or for some other reason has not been presented for payment by the depository on which drawn, and evidence of this fact is submitted, the special district is authorized to issue a duplicate warrant to replace the original warrant; however, certain safeguards should be exercised before the duplicate warrant is issued, as recommended in the following outline:

A duplicate warrant might, under emergency conditions, be issued within a short time after the stop payment order is given the bank where the bank furnishes a statement that they have checked the paid warrants to date and the warrant in question has not been paid. However, a safe position is to wait until the canceled warrants for the month in which the stop payment order was issued are returned by the bank and the fiscal officer has verified the warrant has not been paid.

EXAMINATIONS AND INVESTIGATIONS

Pursuant to recent legislative changes to Ind. Code 5-11-4-3(d), there will be an adjustment to our rates for non-federal taxing units and soil and conservation districts. The statute states, in relevant part:

(d) Except as otherwise provided in this chapter, each:

(1) taxing unit; and

(2) soil and water conservation district;

shall be charged an amount equal to fifty percent (50%) of the actual direct and indirect cost of performing an examination for each field examiner, private examiner, expert, or employee of the state board of accounts who is engaged in making examinations or investigations carried out under this article, but not to exceed four hundred dollars (\$400) per day. . . .

The change will occur for all examinations and investigations with field work beginning on or after July 1, 2023. Our rates are listed below and available at: <https://www.in.gov/sboa/about-us/our-rates/>.

- Non-federal taxing unit and soil and water conservation district rate: \$395 per day
- Technology fee: \$55 per day
- Processing fee: \$35 per day
- Full direct and indirect cost rate: \$968 per day
- Procured audit and opt-out unit processing fee: \$375 per report
- Technical assistance fee for opt-out units: \$129.07 per hour

As always, the entities audited by the State Board of Accounts will continue to receive technical assistance and training from the State Board of Accounts without charge. We appreciate your understanding and support as we strive to maintain the quality of our services, and we look forward to our continued partnership.

 *FOR USE OF FISCAL OFFICER *
 *Duplicate Issued on *
 * Warrant Number _____ *
 * Date _____, 20__ *

AFFIDAVIT FOR ISSUANCE OF DUPLICATE WARRANT

STATE OF INDIANA)
)SS:
 COUNTY OF _____)

I, _____, presently residing at _____
 _____ County, Indiana, being first duly sworn upon my oath, say:

1. That I have been informed a warrant was issued from the _____ Fund, in the sum of \$ _____, said warrant bearing number _____, dated _____, 20__, payable to _____ for _____.

2. That I am the person to whom said warrant was payable, or am the owner, partner or an officer in the firm or corporation to which payable or to which the warrant was subsequently endorsed.

(Strike out 3a or 3b, whichever is not applicable)

3a. That payment has not been received on said warrant or on any other warrant for the sum due as described above, for the reason that said warrant was (describe whether lost, destroyed or stolen; the date of the occurrence, if known; and all other pertinent facts).

3b. That payment was received on said warrant from _____ to whom it was subsequently endorsed.

4. That I fully understand payment will be stopped on the original warrant and, if a duplicate warrant is issued and payment is obtained thereon, that I will not be entitled to receive payment on the original warrant; and, further, should said original warrant ever come into my possession I will immediately forward it to the fiscal officer.

 (Signature of Affiant)

Subscribed and sworn to before the undersigned, a Notary Public, in and for said county and state, this _____ day of _____, 20__.

 Notary Public

My Commission Expires: _____

Note: If the payee did not receive payment, strike out paragraph 3b. If the payee and any subsequent endorser received payment, strike out paragraph 3a. In the latter instance the last party to whom the warrant was endorsed should complete paragraph 3a. A separate affidavit should be obtained from the payee and from each party to whom the warrant was endorsed.

INTERNAL CONTROLS

Internal controls are the policies and procedures used by management to ensure that their programs and functions operate efficiently and effectively in conformance with applicable laws and regulations. One purpose of internal control is to ensure that financial reporting of the financial statements and the schedule of expenditures of federal awards is completed accurately. It is also used to reduce the risk associated with fraud related to the operations of the governmental unit. Internal control is essentially a check and balance system over the operations. The foundation for a good internal control system starts with making sure that there are appropriate procedures in place to ensure that errors are detected and corrected and fraud is prevented.

In order to have an effective internal control system, it is important to have proper segregation of duties. This is accomplished by making sure proper oversight, reviews, and approvals take place. Segregation of duties is a common term referred to in relation to internal control. This means to have a separation of functions over certain activities that would provide internal control. The fundamental premise of segregation of duties is that an individual or small group of individuals should not be in a position to initiate, approve, undertake, and review the same action. An example of appropriate segregation of duties would be having one individual prepare claims, having another individual review and approve the claims, and having a third individual sign the checks for payment of the claims. Without proper segregation of duties, it is impossible to have an effective system of internal control. There are two main advantages to implementing segregation of duties. The first is that fraud is more difficult to perpetrate when proper segregation of duties are in place because it would require collusion of two or more individuals. Secondly, with several individuals involved in the process, innocent errors are more likely to be found and corrected.

The Accounting and Uniform Guidelines Manual for Special Districts requires that internal controls be established and put into operations. Therefore, a sound internal control system should be put in to place to ensure accurate reporting of the financial statements and the schedule of expenditures of federal awards. Additionally, a sound internal control system should be put into place to ensure that all requirements related to federal awards received are complied with. The requirements of a federal program can be obtained from various sources which include but are not limited to the grant agreement with the Federal agency/pass-through entity, the appropriate section of the Code of Federal Regulations and United States Code, and applicable handbooks and other guidance provided by the Federal agency and/or pass-through entity.

In addition to the guidance noted above, the A-102 Common Rule and OMB Circular A-110 (2 CFR part 215) require that non-Federal entities receiving Federal awards (i.e., auditee management) establish and maintain internal control designed to reasonably ensure compliance with Federal laws, regulations, and program compliance requirements. OMB Circular A-133 requires auditors to obtain an understanding of the non-Federal entity's internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs, plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program, and, unless internal control is likely to be ineffective, perform testing of internal control as planned.

As the auditor of your local governmental entity, the State Board of Accounts will be assessing the controls you have in place over the preparation of the financial statements and schedule of expenditures of federal program and over the compliance with the requirements of federal programs. If we determine that controls for any of these areas are either not in place or are not operating effectively, we are required by the standards we follow to report those issues. This reporting is required to be made in the form of written Federal finding included in the audit report. In order for us to be able to determine operating effectiveness of the controls, we must have documentation of the controls to audit. Therefore, any review completed over the preparation of the financial statement or schedule of expenditure of federal awards should be documented in some way. Additionally, the oversight given to ensure compliance with requirements of the federal programs should be documented.



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TO: ENTITIES REPORTING ON THE GAAP BASIS OF ACCOUNTING

FROM: Tammy White, CPA
 Deputy State Examiner

DATE: March 7, 2023

RE: Reporting of State and Local Fiscal Recovery Funds (ALN: 21.027)

The purpose of this memorandum is to address the proper accounting and reporting of the first and second tranche of the American Rescue Plan Act's State and Local Fiscal Recovery Fund (SLFRF) (Assistance Listing Number 21.027). Local governments received funds in two tranches, with 50 percent provided beginning in May 2021, and the balance delivered approximately 12 months later.

GASB defines and grants and other financial assistance per GASB Cod. § N50.504 as: "Transactions in which one governmental entity transfers cash or other items of value to (or incurs a liability for) another governmental entity, an individual, or an organization as a means of sharing program costs, subsidizing other governments or entities, or otherwise reallocating resources to the recipients." These types of transactions are either government-mandated nonexchange transactions or voluntary nonexchange transactions, and they may be subject to eligibility requirements, time requirements, and/or purpose restrictions. Eligibility requirements are conditions established by enabling legislation or the provider that are required to be met before a transaction (other than the provision of cash or other assets in advance) can occur.

The SLFRF awards are voluntary nonexchange transactions. Per GARS § N50.112 and 118, recipients report the cash advances as liabilities until allowable costs have been incurred and any other eligibility requirements have been met. Revenues are recognized once allowable costs are incurred.

The following gives an example of the appropriate SLFRF journal entries in accrual and modified accrual financial statements.

To record the initial receipt of the award before all applicable eligibility requirements, including time requirements, are met (resulting increase in net position is restricted):

	<u>Debit</u>	<u>Credit</u>
Cash	XXXXX	
Liability - Unearned Revenue	<u> </u>	<u>XXXXX</u>

To record a decrease in liabilities once an allowable expenditure is made:

	<u>Debit</u>	<u>Credit</u>
Liability - Unearned Revenue	XXXXX	
Revenue		XXXXX
	<u> </u>	<u> </u>

To record an allowable expenditure:

	<u>Debit</u>	<u>Credit</u>
Expenditure (General government, public safety, etc.)	XXXXX	
Cash		XXXXX
	<u> </u>	<u> </u>

Example: A county was awarded and received a total SLFRF award of \$20 million. In 2021, the county received \$10 million and expended \$300,000 of its first tranche on allowable costs. In 2022, the county received its second tranche of \$10 million and expended another \$900,000 on allowable costs. The county had no other transactions involving its SLFRF fund. As of the below named fiscal year ends, the accounts would report the following balances:

	<u>December 31, 2021</u>	<u>December 31, 2022</u>
Cash	\$9,700,000	\$18,800,000
Liability - Unearned Revenue	9,700,000	18,800,000
Revenue	300,000	900,000
Expense	300,000	900,000

Entities will continue to report a liability in their SLFRF fund until all funds are properly expended. As a reminder, SLFRF funds must be obligated by December 31, 2024, and expended by December 31, 2026. Per U.S. Treasury's final rule, an obligation means an order placed for property and services, and entering into contracts, subawards, and similar transactions that require payment.

For additional resources, see:

www.gars.gasb.org

"Whose Rules Rule?"

Government Financial Officers Association, gfoa.org/materials/gfr1222-accounting

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