
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE
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INDIANAPOLIS, IN 46204

MEMORANDUM

TO: All School Officials
FROM: Timothy J. Rushenberg, Commissioner
SUBJECT: School Excess Levy Appeals
DATE: July 23, 2009

The purpose of this memorandum is to outline for every school corporation what excess levy appeals are available in order to receive additional property tax dollars beyond their maximum levies. The types of appeals available have changed significantly in the last few years.

The following appeals are available to school corporations:

- Referendum Levy (IC 20-46-1-6)
- Transportation Operating Appeal (IC 20-46-4-10)

Note that all appeals will be reviewed by the Department and will no longer go before the School Property Tax Control Board for a recommendation pursuant to House Enrolled Act 1001-2009(ss). For more information, please see our memo on this topic, located at [www.in.gov/dlgf/files/090710 - Rushenberg Memo - Elimination of Control Boards.pdf](http://www.in.gov/dlgf/files/090710_-_Rushenberg_Memo_-_Elimination_of_Control_Boards.pdf).

APPEAL PROCEDURES:

- 1) The School Corporation advertises a budget and levy for the following year twice before September 10. A public hearing is held pursuant to IC 6-1.1-17-3. The advertised budget and levy must include the school's excess levy amount, as outlined in #2 below.
- 2) The School Corporation must advertise the total amount of excessive levy appeal within the maximum estimated budget levy and on the excessive levy appeal line on Notice to Taxpayers (Budget Form 3). **The appeal amount must be advertised on both the excessive levy appeal line and included in the estimated transportation fund levy. Failure to include the appeal levy in both places may result in denial of the appeal request.**
- 3) The School Corporation adopts the budget, rate, and levy for the following year on or before November 1, as required by IC 6-1.1-17-5.

- 4) **Appeal petitions are sent to the Department of Local Government Finance (“Department”) office in Indianapolis.**
- 5) Copies of the annual budgets are forwarded to the County Auditor, as provided by IC 6-1.1-17-5. The budget is reviewed by the County Board of Tax Adjustment (TAB), if any. The TAB, or in the absence of such, the county auditor, may not approve an amount over the maximum controlled levy. For this reason, appeals to the Department for excessive levies are also considered appeals against the action of the TAB.
- 6) The Department’s Hearing Officers conduct annual budget hearings. The Hearing Officer will consider the appeal in the budget, rate, and levy recommended for approval.
- 7) The Department will consider relevant information and make a final decision (with the exception of a referendum levy, which is approved by the voters). The School Corporation will be notified of the Department’s final action on the excessive levy request.
- 8) The Department will not consider excessive levy appeals that are more than three (3) years old. A school asking for consideration of an appeal will be held to this timetable.

Officials must file the following information regarding an excessive levy appeal.

- 1) **Proofs of publication for the ensuing budget year;**
- 2) **School board resolution to adopt an excessive levy appeal;**
- 3) **Completed excessive levy appeal application;**
- 4) **A petition requesting consideration of an excessive levy appeal**
- 5) **Any other information related to the excessive levy appeal request.**

Referendum Levy

A school corporation may conduct a referendum to increase its property tax levy. The appeal petition should state whether the proposed referendum would be used to fund new programs or supplement existing revenues, and the amount of the increase to the tax levy requested. A referendum is an increased levy raised through a special fund titled, “referendum fund” for a period not to exceed seven (7) years. However, a referendum tax levy may be re-imposed or extended under the law.

IC 20-46-1-8 and -9, effective on July 1, 2008, allows a school board to adopt a resolution to place a referendum on the ballot for either of the following purposes:

- (1) The school board determines that it cannot, in a calendar year, carry out its public educational duty unless it imposes a referendum tax levy.

(2) The school board determines that a referendum tax levy should be imposed to replace property tax revenue that the school corporation will not receive because of the application of the circuit breaker credit under IC 6-1.1-20.6.

A referendum tax levy may be put into effect only if a majority of the individuals who vote in a referendum approve the school corporation's referendum question for the following calendar year. According to IC 3-10-9-3, if a local public question must be certified to an election board by law, that certification must occur no later than noon:

(1) sixty (60) days before a primary election (if the public question is to be placed on the primary or municipal primary election ballot); or

(2) August 1 (if the public question is to be placed on the general or municipal election ballot.)

The referendum shall be held in the next primary or general election if one is to be held no more than six (6) months after the question is certified to the County Clerk. If a primary or general election is not to be held within six (6) months after receiving the certified question, a special election shall be held not less than ninety (90) days after the question is certified. The School Corporation may request a date for the special election to be held, and if practicable, the election will be held on that date. **If the referendum cannot be held in a primary or general election, the School Corporation will pay the cost of the election for a referendum levy.** If the majority of voters in a referendum to allow the school corporation to impose a referendum tax levy do not vote to approve the levy, another referendum may not be held for a period of one year.

Pursuant to IC 20-46-1, a school corporation may impose a referendum tax levy in an amount allowed under IC 20-46-1-6 for the school corporation. *Property tax collections from the implementation of the referendum fund tax levy will be deposited in the referendum fund and used for any lawful school expenses consistent with the wording of the referendum question.* The referendum fund is not eligible for property tax replacement credits in CAGIT counties.

Transportation Operating Appeal

A school corporation may appeal to the **Department on or before October 19** to increase the maximum operating transportation levy that is permitted for the school corporation's operating in the transportation fund under IC 20-40-6.

IC 20-46-4-10 reads as follows:

“(a) [a] school corporation may appeal to the Department of Local Government Finance under this chapter to increase the maximum operating costs levy that is permitted for the school corporation's operating costs account for its transportation fund established under IC 20-40-6. To be granted an increase by the Department of Local Government Finance, the school corporation must establish that the increase is necessary because of a transportation operating

increase of at least ten percent (10%) over the preceding year as the result of at least one (1) of the following:

- 1) A fuel expense increase.
- 2) A significant increase in the number of students enrolled in the School Corporation that need transportation or a significant increase in the mileage traveled by the school corporation's buses compared to the previous year.
- 3) A significant increase in the number of students enrolled in special education that need transportation or a significant increase in the mileage traveled by the school corporation's buses due to students enrolled in special education as compared to the previous year.
- 4) Increased transportation operating costs due to compliance with a court ordered desegregation plan addition. Before the Department may grant a maximum operating costs account levy, the school corporation must establish that the school corporation will be unable to provide transportation services without an increase. The Department may grant a maximum operating costs levy increase that is less than the increase requested by the School Corporation.
- 5) The closure of a school building within the School Corporation resulting in a significant increase in the distances students must be transported to attend another school building.

(b) If the Department of Local Government Finance determines that a permanent increase in the maximum permissible operating levy is necessary, the maximum operating levy after the increase granted under this section becomes the school corporation's maximum permissible transportation fund's operating levy under IC 20-46-4-6."

The Department cannot approve a levy increase resulting from a transportation operating increase that would authorize the school corporation to collect a levy in excess of that initially advertised and adopted by the appellant school corporation. The levy increase from this type of appeal is a permanent increase to the corporation's Transportation Maximum Levy limit.

Information sheets are attached for use in requesting a transportation appeal.

If you have any questions, please contact Assistant Budget Director Dan Jones at djones@dlgf.in.gov or (317) 232-0651.

The School Board of the _____ School Corporation,
_____ County, State of Indiana, has determined to file for an excess
levy appeal.

(Please check the appropriate excessive levy appeal(s) and provide the amount(s) the School Corporation is
requesting:

Transportation appeal: _____ **Amount requested:** _____

To increase the Transportation Maximum Levy Limit due to operating increases in excess of ten
percent (10%) pursuant to IC 20-46-4-10.

Referendum appeal: _____ **Rate requested:** _____

To increase its maximum permissible general fund levy through a referendum pursuant to IC 20-
45-1 for a period up to seven years.

The governing body of said school corporation hereby resolved to proceed with a petition for an
Excess Levy/Emergency Financial Relief to the Department of Local Government Finance.

Adopted this _____ day of _____, _____.

| FOR | AGAINST |
|-------|---------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

ATTEST: _____

TRANSPORTATION OPERATING FUND APPEAL IC 20-46-4-10

School Corporation Name: _____

County: _____

Amount requested \$ _____ **Tax rate impact \$** _____

Did the School District Board advertise/adopt a levy and tax rate high enough to allow an excessive levy appeal? Y _____ **N** _____

(Please provide proof(s) of publication with appeal documentation)

The need for a levy increase is due to:

1. FUEL INCREASE:

2009 gallon _____ x Per gallon price _____ = _____
2010 gallon _____ x Per gallon price _____ = _____
Increase _____

2) SIGNIFICANT CHANGE IN NUMBER OF STUDENTS TRANSPORTED OR MILES TRAVELED:

2009 Students transported _____ 2009 Miles traveled _____
2008 Students transported (Est.) _____ 2008 Est. miles traveled _____
Difference _____ Difference _____

3) SIGNIFICANT CHANGE IN NUMBER OF SPECIAL EDUCATION STUDENTS TRANSPORTED OR MILES TRAVELED BY BUSES TRANSPORTING SPECIAL EDUCATION STUDENTS:

2009 Special Education Students Transported _____
2010 Special Education Students Transported (Est.) _____
Difference _____

2009 Special Education Miles Transported _____
2010 Special Education Miles Transported (Est.) _____
Difference _____

4) CHANGE IN TRANSPORTATION OPERATING COSTS DUE TO COURT ORDERED DESEGREGATION PLAN:

2009 Transportation Desegregation Expense _____
2010 Transportation Desegregation Expense (Est.) _____
Difference _____

5) CLOSURE OF A BUILDING WITHIN THE SCHOOL CORPORATION THAT RESULTS IN A SIGNIFICANT INCREASE IN THE DISTANCES STUDENTS MUST BE TRANSPORTED TO ANOTHER SCHOOL BUILDING

2009 Miles traveled _____ Date of closure: _____
 2010 Miles traveled (Est.) _____
 Building that closed: _____

Please complete the following sections to provide more detail on the transportation appeal:

Has the school corp. added any new transportation positions during the last three years? Y N

If yes, please provide a list of positions and costs.

| Position | Year Added | Salary | Benefits | Total Costs |
|----------|------------|--------|----------|-------------|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

Assessed valuation growth during the last five years:

| Year | Assessed valuation | Percentage inc/dec from previous year |
|-------------------------|--------------------|---------------------------------------|
| 2005 p 2006 | _____ | _____ |
| 2006 p 2007 | _____ | _____ |
| 2007 p 2008 | _____ | _____ |
| 2008 p 2009 | _____ | _____ |
| 2009 p 2010 (projected) | _____ | _____ |

Student Count - ADM

Year _____

| | Reg. Ed. | Special Ed. | Voc. Ed. | # Bus Routes |
|-------------------------|----------|-------------|----------|--------------|
| A. Eligible Pupil Count | _____ | _____ | _____ | _____ |
| B. Round Trip Mileage | _____ | _____ | _____ | _____ |
| C. Linear Density (A/B) | _____ | _____ | _____ | _____ |

Year _____

| | Reg. Ed. | Special Ed. | Voc. Ed. | # Bus Routes |
|-------------------------|----------|-------------|----------|--------------|
| A. Eligible Pupil Count | _____ | _____ | _____ | _____ |
| B. Round Trip Mileage | _____ | _____ | _____ | _____ |
| C. Linear Density (A/B) | _____ | _____ | _____ | _____ |

Year _____

| | | | | |
|-------------------------|----------|-------------|----------|--------------|
| | Reg. Ed. | Special Ed. | Voc. Ed. | # Bus Routes |
| A. Eligible Pupil Count | _____ | _____ | _____ | _____ |
| B. Round Trip Mileage | _____ | _____ | _____ | _____ |
| C. Linear Density (A/B) | _____ | _____ | _____ | _____ |

Year _____

| | | | | |
|-------------------------|----------|-------------|----------|--------------|
| | Reg. Ed. | Special Ed. | Voc. Ed. | # Bus Routes |
| A. Eligible Pupil Count | _____ | _____ | _____ | _____ |
| B. Round Trip Mileage | _____ | _____ | _____ | _____ |
| C. Linear Density (A/B) | _____ | _____ | _____ | _____ |

Year _____

| | | | | |
|-------------------------|----------|-------------|----------|--------------|
| | Reg. Ed. | Special Ed. | Voc. Ed. | # Bus Routes |
| A. Eligible Pupil Count | _____ | _____ | _____ | _____ |
| B. Round Trip Mileage | _____ | _____ | _____ | _____ |
| C. Linear Density (A/B) | _____ | _____ | _____ | _____ |

Year _____

| | | | | |
|-------------------------|----------|-------------|----------|--------------|
| | Reg. Ed. | Special Ed. | Voc. Ed. | # Bus Routes |
| A. Eligible Pupil Count | _____ | _____ | _____ | _____ |
| B. Round Trip Mileage | _____ | _____ | _____ | _____ |
| C. Linear Density (A/B) | _____ | _____ | _____ | _____ |

Year _____

| | | | | |
|-------------------------|----------|-------------|----------|--------------|
| | Reg. Ed. | Special Ed. | Voc. Ed. | # Bus Routes |
| A. Eligible Pupil Count | _____ | _____ | _____ | _____ |
| B. Round Trip Mileage | _____ | _____ | _____ | _____ |
| C. Linear Density (A/B) | _____ | _____ | _____ | _____ |

Comments:

Transportation Operating Appeal Formula

Historically, the Department of Local Government Finance used the following formula in its review of transportation operating appeals.

$$(\text{A} - \text{B}) \times \text{C} = \text{Levy Increase Allowed}$$

A = % increase in budget (1.2 in example below)

(2010 budget / 2009 budget = % increase in budget)

NOTE: when calculated, this number must be at least 1.10 to qualify for an appeal

B = Maximum levy growth factor (1.038 for 2010)

C = 2009 transportation maximum levy (\$100,000 in example below)

Example:

2010 budget = \$1,200,000

2009 budget = \$1,000,000

1,200,000 / 1,000,000 = 1.20 (% increase in budget)

(1.20 – 1.038) x (\$100,000) = Levy Increase Allowed

(0.162) x (\$100,000) = Levy Increase Allowed

\$16,200 = Levy Increase Allowed

School Calculation:

1. 2010 budget = \$ _____

2. 2009 budget = \$ _____

A. % increase in budget _____

B. Maximum levy growth factor = 1.038

C. 2009 Transportation maximum levy = \$ _____

Line 1 / Line 2 = Line A

$$(\text{Line A} - \text{Line B}) \times \text{Line C} = \text{Levy Increase Allowed}$$

Levy Increase Allowed: \$ _____

| ACCOUNTS TO BE CONSIDERED FOR INCREASED LEVY | | | | | | |
|--|---------------------------------------|---------------------------------------|---------------------------------------|---|---|--|
| Account Name and Number to be Considered for a Transportation Appeal | *Column 1 2006 Actual Expenditures | *Column 2 2007 Actual Expenditures | *Column 3 2008 Actual Expenditures | Column 4 2009 Certified Appropriations | Column 5 2010 Projected Expenditures | |
| 25520 Vehicle Operations | | | | | | |
| 25530 Monitoring Services | | | | | | |
| 25540 Vehicle Service Maintenance | | | | | | |
| 25560 Bus Insurance | | | | | | |
| 25570 Insurance on Pupils | | | | | | |
| 25580 Contracted Pupil Transp. Service | | | | | | |
| 25590 Other Pupil Transp. Service | | | | | | |
| 25591 Bus Driver Training | | | | | | |
| 26491 PERF | | | | | | |
| 26492 Social Security | | | | | | |
| 26493 Workmen's Comp. | | | | | | |
| 26494 Group Insurance | | | | | | |
| 26496 Unemployment Comp. | | | | | | |
| 26497 Teachers Retirement Fund | | | | | | |
| 26498 Severance/Early Retirement Pay | | | | | | |
| Other | | | | | | |
| Other | | | | | | |
| Other | | | | | | |
| Total Operating Expenses | | | | | | |

Amount of change from previous year: Col. 6 minus Col. 4 divided by Col. 4 = _____ % change

Percentage change must be a minimum of ten percent (10%) to have consideration of an appeal.

***If totals do not agree with your Calendar Financial Report submitted to DOE, please provide a detailed explanation.**