

Key Ideas

Chapter 9: The Cumulative Fund Process



In this section, we will discuss the following:

- *The procedures for establishment of a cumulative fund.*
- *The types of cumulative funds available to a county.*
- *The timing requirements for establishment of a cumulative fund.*
- *The public notices required for establishment of a cumulative fund.*
- *The Department's final determination.*

PROCEDURE FOR ESTABLISHMENT OF A CUMULATIVE FUND

In addition to complying with the budget requirements of Ind. Code § 6-1.1-17, a taxing unit must follow the steps for establishing a cumulative fund pursuant to Ind. Code § 6-1.1-41. If the establishment is not in compliance with Ind. Code § 6-1.1-41 and this section, a tax may not be levied in the ensuing year. In addition, the fund may not have a rate that exceeds what is stated in the applicable statute. After a political subdivision complies with Ind. Code § 6-1.1-41 to establish the cumulative fund, it may levy a property tax annually at the rate approved without further action. The tax levy must be advertised annually as other tax levies are advertised and the tax rate must be adopted. Steps 1 through 3 must occur **before August 2nd** per Ind. Code § 6-1.1-17-16.7. (Transcript postmarked or file marked no later than August 1.)

Step 1. If a county decides to levy a new cumulative fund, or increase the rate on an existing cumulative fund that is currently below the statutory maximum rate, it shall hold a public hearing on the proposal. Taxpayers are notified of this public hearing by the publication of a Notice to Taxpayers (a sample is included in this chapter), describing the tax levy and rate to be imposed. The Notice shall be published two (2) times, at least one (1) week apart, with the first publication being at least ten (10) days before the date of the public hearing and the second publication made at least three (3) days before the date of the hearing in accordance with Ind. Code § 5-3-1-2(f). The notice must describe the tax rate that will be imposed for the fund. To count the number of days, begin counting days with the day after the notice first appears and count the day of the hearing. Use the same procedure to count days for the second appearance of the legal advertisement.

The following applies for legal notices to various political subdivisions:

County: A county must publish in two (2) newspapers. If only one (1) newspaper is published in the county, publication in that newspaper alone is sufficient. If only one (1) newspaper is used, the county must provide evidence that the Commissioners designated that qualified publication as its designated publication.

Step 2. The adopting body shall conduct a public hearing on the proposed cumulative fund on the date, time, and at the location indicated in the legal notice. At this meeting, the taxpayers in the affected county have the right to be heard. Upon completion of the public hearing, the adopting body must pass a resolution/ordinance adopting the proposed fund as presented or at a lesser tax rate.

Step 3. If a resolution/ordinance is passed by the adopting body that proposes a rate for a cumulative fund, the proposal is submitted by the County Auditor, on behalf of the adopting body, to the DLGF for approval. The proposal should consist of:

- 1) procedures checklist (A sample checklist is included at the end of this chapter.);
- 2) the resolution/ordinance of the adopting body; and
- 3) proofs of publication from all newspapers where the legal advertisement appeared.

Step 4. The proposal, as submitted, will be reviewed by the DLGF for completeness. If the proposal contains errors or proper procedures were not followed, the packet will be returned to the fiscal officer of the adopting unit for correction, providing that the time constraints can be met.

Step 5. The DLGF requires that a Notice of Submission be given to affected taxpayers. This notice will be prepared by the DLGF and mailed to the taxing unit. The taxing unit shall publish the notice one (1) time in two newspapers. If only one (1) newspaper is published within the county, then publication in that newspaper alone is sufficient. (If the fund is a Cumulative Voting System (IC 3-11-6) or Cumulative Channel Maintenance (IC 8-10-5), the notice shall also be posted in three (3) public places in the political subdivision.

Step 6. No Taxpayer Objections

After the required remonstrance period has passed, the adopting unit shall forward the following information to the DLGF:

1. Proof of publication of the Notice of Submission
2. Proof of posting of a public hearing (if required)
3. County Auditor's Certificate of No Objection (a sample certificate is included at the end of this chapter). It is the responsibility of the applying taxing unit to secure a Certificate of No Objection from the County Auditor. Proofs of publication of the Notice of Submission must be provided to the Auditor in order to verify that the proper time for filing objections has passed.

Taxpayer Objections

Taxpayers who are affected by the proposed Cumulative Fund may file an objecting petition with the County Auditor not later than noon, by the end of the required remonstrance period after publication of the Notice of Submission setting forth their objections to the proposed rate. Pursuant to IC 6-1.1-41, the number of signatures required for a valid objecting petition is specific to each type of Cumulative Fund as follows:

IC 8-16-3-3	Cumulative Bridge Fund	10
IC 8-16-3.1	Major Bridge Fund	10
IC 14-33-21	Cum. Improvement Fund	10
IC 16-22-5-2	Cum. Building Hospital	25
IC 36-10-3-21	Cum. Building Park	30
IC 36-9-14.5-1	Cumulative Capital Development Fund	50
IC 36-9-14-1	Cumulative Courthouse	50
IC 36-9-15-1	Cumulative Jail Fund	50
IC 36-9-27-100	Cumulative Drainage	50
IC 8-22-3-25	Cumulative Building Airport	50
IC 36-9-16-1	Cumulative Building	50
IC 3-11-6-9	Cumulative Voting System Purchase	100

The County Auditor shall immediately certify the objecting petition(s) to the DLGF by verifying:

- (a) the number of taxpayers on the petition and counterparts who are property owners with the taxing district(s) where the proposed Cumulative Fund will be levied;
- (b) that the proper number of qualified signatures appear on the petition and counterparts; and
- (c) the petition(s) was filed within the proper number of days after the publication of the Notice of Submission.

If the County Auditor certifies an objecting petition to the DLGF, the Department shall fix a date for hearing within a reasonable time after receipt. Notice of the hearing, under the signature of the Commissioner of the DLGF, shall be given to the County Auditor and the first ten (10) taxpayers whose names appear on the petition at least five (5) days before the date of the hearing.

A hearing will be conducted in the County by a hearing officer of the DLGF at which time all affected taxpayers have the right to be heard. Testimony will be accepted from those in opposition as well as those in favor. The hearing officer(s) will submit a report on the hearing to the Commissioner

In years following the year of adoption and pursuant to IC 6-1.1-41-12, taxpayers of the taxing district(s) where the rate is levied may file with the County Auditor a petition for reduction or revision of the Cumulative Fund levy. Such petitions must be filed on or before August 1 for the next ensuing year. The required number of taxpayers to file an objection is as follows:

Cumulative Fund		Number of Taxpayers
IC 8-16-3-3	Cumulative Bridge Fund	10
IC 8-16-3.1	Major Bridge Fund	10
IC 14-33-21	Cum. Improvement Fund	10
IC 16-22-5-2	Cum. Building Hospital	25
IC 36-10-3-21	Cum. Building Park	30
IC 36-9-14.5-1	Cumulative Capital Development Fund	50
IC 36-9-14-1	Cumulative Courthouse	50
IC 36-9-15-1	Cumulative Jail Fund	50
IC 36-9-27-100	Cumulative Drainage	50
IC 8-22-3-25	Cumulative Building Airport	50
IC 36-9-16-1	Cumulative Building	50
IC 3-11-6-9	Cumulative Voting System Purchase	100

Step 7. The DLGF shall certify approval, disapproval, or modification of the proposal to the County Auditor. The action of the DLGF with respect to the proposed levy is final. The approved Cumulative Fund may be levied beginning with the first annual tax levy after approval or the year as stated in the Notice to Taxpayers and the final order approving the fund. The Cumulative Fund does not expire and may be levied from year to year as long as the levy is advertised annually with the annual budget or is not limited by the establishing resolution/ordinance.

For Cumulative Capital Development Funds, the fiscal body shall specify in its establishing resolution the rates for year one, year two, year three (and thereafter). This method will allow for the increasing rates without the unit having to reestablish each of the first three years of the fund. However, the unit must clearly state the increasing rates in its resolution and publications. (Sample resolutions/ordinances and publications are included at the end of this chapter.)

If the appropriate fiscal body for a given calendar year reduces the Cumulative Fund rate and wishes to increase the rate in subsequent years, the fund must be reestablished and presented to taxpayers. The fund must also be reestablished if the use of the Cumulative Fund is changed.

The tax rate may not exceed the rate as specified by the statute authorizing the fund. The DLGF will apply the rate cap calculations to all Cumulative Funds as listed in this chapter. The maximum property tax rate levied may be adjusted each year as a result of trending assessed values. When a Cumulative Fund is established, the DLGF order will reflect the (statutory) rate adopted by the taxing unit. The Budget Order will reflect the rate cap adjustment pursuant to Ind. Code § 6-1.1-18.5-9.8.

General

Taxes collected shall be deposited in a specific fund and may only be used for the purposes as stated in the statute and/or the resolution/ordinance as adopted. All funds must be appropriated before expenditure. The DLGF must approve all appropriations, except for the Cumulative Bridge Fund. Appropriations may be included in the political subdivision's annual budget or may be established by additional appropriation.

If the political subdivision establishing the fund;

- (1) decides that the purposes for which the fund was established have been accomplished or no longer exists; or
- (2) rescinds the tax levy for the fund;

the governing body establishing the fund for the political subdivision may transfer the balance in the fund to the General Fund of the unit. The money in a Cumulative Fund does not revert to the General Fund at the end of the fiscal year.

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED
CUMULATIVE _____ FUND**

Notice is given to the taxpayers of _____ County Unit,
_____ County, that the _____ (adopting body) will
consider at their regular meeting place at _____, at
_____ o'clock a.m./p.m. on the _____ day of _____, the establishment
of a Cumulative _____ Fund under the provisions of IC _____ for the
purposes stated therein, including:

**(Unit may set out selective uses as provided by the establishing statute or the unit
may state "For all uses as set out in IC _____")**

The tax will be levied on all taxable real and personal property within the taxing
district and will not exceed \$.____ (rate) per \$100 of assessed valuation. The proposed
fund will be levied beginning with taxes due and payable in the year _____.

Taxpayers appearing at such hearing shall have a right to be heard. The proposal for
establishment of the Cumulative _____ Fund is subject to
approval by the Department of Local Government Finance, who will require Notice of
Submission to be given to the taxpayers through publication. After the publication of the
Notice of Submission, _____ or more taxpayers in the taxing district may file a petition
with the County Auditor not later than _____ days after publication, setting forth
their objection to the proposed levy.

Dated this _____ day of _____ 20____.

ORDINANCE/RESOLUTION ESTABLISHING
CUMULATIVE _____ FUND
UNDER IC _____

BE IT RESOLVED by the _____ (adopting body) of
_____ County , Indiana that a need now exists for the establishment of
Cumulative _____ Fund for the following purposes:

**(Unit may set out selective uses as provided by the establishing statute or the unit may state
“For all uses as set out in IC _____)**

BE IT FURTHER RESOLVED that this Board/Council will adhere to the provisions of
IC _____. Proposed fund will not exceed \$._____ on each \$100 of assessed
value. Said tax rate will be levied beginning with taxes for 20__ payable 20__.

BE IT FURTHER RESOLVED that proofs of publication of the public hearing held on
_____ day of _____, 20__ and a certified copy of this resolution be submitted to
the Department of Local Government Finance of the State of Indiana as provided by law. Said
Cumulative Fund is subject to the approval of the Department of Local Government Finance.

Duly adopted by the following vote of the members of said
_____ (adopting body), this _____ day of _____, 20__.

NAY

AYE

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Attest:

Fiscal Officer

_____ County

PROCEDURES FOLLOWED

(Complete the top portion of this form and submit to the Department of Local Government Finance with proofs-of-publication of Notice to Taxpayers and the adopted ordinance).

TAXING UNIT _____ COUNTY _____

CUMULATIVE FUND _____

IC CODE: _____

YEAR TO BE FIRST LEVIED 20 ____ payable 20 ____.

NOTICE TO TAXPAYERS:

1st Publication: _____ in the _____
(Date) (Name of Newspaper)
_____ in the _____
(Date) (Name of Newspaper)

2nd Publication _____ in the _____
(Date) (Name of Newspaper)
_____ in the _____
(Date) (Name of Newspaper)

PUBLIC HEARING HELD ON: _____, 2 _____

ORDINANCE ADOPTED ON: _____, 2 _____

PROPOSED RATE : \$ _____

CONTACT PERSON _____

MAILING ADDRESS OF UNIT: _____

E-MAIL ADDRESS (OPTIONAL) _____

CERTIFICATE OF NO OBJECTION

I, _____ Auditor of
_____ County, Indiana, do hereby certify that there
was no remonstrance filed on the proposed Cumulative _____ Fund
as adopted by the _____ (adopting body)
on _____. Notice of Submission provided by the
Department of Local Government Finance was published on _____,
_____ in the _____ newspaper.
Dated this _____ day of _____, 20 _____.

_____ County Auditor

Summary

Chapter 9: The Cumulative Fund Process



In this section, we have discussed the following:

- *The county unit has until August 1st to establish a cumulative fund.*
- *The county unit must consider the cumulative fund during budget preparation.*
- *The county unit must advertise and adopt its cumulative fund budget, levy and rate.*
- *The DLGF provides the Notice of Submission to county units establishing a cumulative fund.*
- *The DLGF approves or disapproves cumulative funds.*