

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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TO: County Auditors and County Council Members

FROM: Dan Jones, Assistant Budget Division Director *DJ*

RE: Levy Excess, Family and Children and Children's Psychiatric Residential Treatment Services (CPRTS) Funds

DATE: July 22, 2009

The purpose of this memorandum is to inform county auditors and county council members of legislative changes as passed in House Enrolled Act (HEA) 1001(ss)-2009, Sections 476-477 with respect to the treatment of balances in a county's levy excess fund from the family and children's fund and CPRTS fund.

Levy Excess to Rainy Day Fund

If a county transferred an amount from the county's family and children's fund or CPRTS fund to the county's levy excess fund, a county fiscal body may adopt a resolution to transfer that balance from the levy excess fund to the county's rainy day fund established under IC 36-1-8-5.1. The transfer must occur on or before December 31, 2009. Funds transferred to the rainy day fund can be used for any purpose specified in the resolution establishing the rainy day fund.

Levy Excess to Rainy Day Fund and Public Safety Use

If a county had an April 1, 2009 total balance of at least ten million dollars (\$10,000,000) in the county's family and children's fund and CPRTS fund and transferred balances from those funds to the county's levy excess fund, a county fiscal body may adopt a resolution to distribute an amount equal to those transfers from the levy excess fund to the county's rainy day fund and for public safety.

The transfers are to occur as follows:

(1) One million dollars (\$1,000,000) from those transfers are required to be distributed to the county's rainy day fund.

(2) Two-thirds (2/3) of the amount from those transfers that remains after the distribution to the county's rainy day fund must be distributed to civil taxing units in the county to be used for public safety.

Example: A county had an April 1, 2009 total balance of \$10,000,000 in the county's family and children's fund and CPRTS fund and transferred \$10,000,000 to the county's excess levy fund. The county fiscal body may adopt a resolution to transfer from the levy excess fund \$1,000,000 to the county's rainy day fund and to distribute \$6,000,000 to civil taxing units in the county to be used for public safety.

Before August 1, 2009, the County Auditor is required to determine each civil taxing unit's share of the public safety distribution amount in the same manner that local income tax distributions are determined under:

- (1) IC 6-3.5-1.1-15, if CAGIT is in effect in the county; or
- (2) IC 6-3.5-6-18(a)(6), if CAGIT is *not* in effect in the county.

The County Auditor is required to make the distributions to the civil taxing units in August 2009.

Questions should be directed to Dan Jones, Assistant Budget Director, at 317-232-0651 or djones@dlgf.in.gov.

Text of Legislation

SECTION 476. [EFFECTIVE JULY 1, 2009] (a) This SECTION applies to a county that had an amount transferred to the county's levy excess fund established under IC 6-1.1-18.5-17 from the county's:

- (1) family and children's fund under P.L.146-2008, SECTION 823(b); and**
- (2) children's psychiatric residential treatment services fund under P.L.146-2008, SECTION 824(b).**

(b) A county fiscal body may adopt a resolution to transfer the amount referred to in subsection (a) from the county's levy excess fund to the county's rainy day fund established under IC 36-1-8-5.1.

(c) This SECTION expires December 31, 2009.

SECTION 477. [EFFECTIVE UPON PASSAGE] (a) This SECTION applies to a county that had an April 1, 2009, aggregate balance of at least ten million dollars (\$10,000,000) in the county's:

- (1) family and children's fund (IC 12-19-7 before its repeal); and**
- (2) children's psychiatric residential treatment services fund (IC 12-19-7.5 before its repeal).**

(b) This SECTION applies to a county after balances have been transferred to the county's levy excess fund established under IC 6-1.1-18.5-17 from the county's:

- (1) family and children's fund under P.L.146-2008, SECTION 823(b); and**
- (2) children's psychiatric residential treatment services fund under P.L.146-2008, SECTION 824(b).**

(c) As used in this SECTION, "civil taxing unit" has the meaning set forth in:

- (1) IC 6-3.5-1.1-1, if the county adjusted gross income tax is in effect in the county; or**
- (2) IC 6-3.5-6-1, if the county adjusted gross income tax is not in effect in the county.**

(d) A county fiscal body may adopt a resolution to distribute an amount equal to those transfers referred to in subsection (b) from the county's levy excess fund to the county's rainy day fund established under IC 36-1-8-5.1 and for public safety as follows:

(1) One million dollars (\$1,000,000) from those transfers referred to in subsection (b) shall be distributed to the county's rainy day fund established under IC 36-1-8-5.1.

(2) Two-thirds (2/3) of the amount from those transfers referred to in subsection (b) that remains after the distribution under subdivision (1) shall be distributed to civil taxing units in the county to be used for public safety.

(e) Before August 1, 2009, the county auditor shall determine each civil taxing unit's share of the amount referred to in subsection (d)(2) in the same manner that local income tax distributions are determined under:

(1) IC 6-3.5-1.1-15, if the county adjusted gross income tax is in effect in the county; or

(2) IC 6-3.5-6-18(a)(6), if the county adjusted gross income tax is not in effect in the county.

The county auditor shall make the distributions to the civil taxing units in August 2009.

(f) This SECTION expires December 31, 2011.