

# STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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**TO:** All Political Subdivisions

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

**SUBJECT:** Procedures for the Establishment of Cumulative Funds

**DATE:** July 14, 2011

## INTRODUCTION

The Department of Local Government Finance ("Department") issues this bulletin, which applies to the following Cumulative Funds established under Indiana Code § 6-1.1-41 and supersedes all previous bulletins.

<u>Fund</u>	<u>Statutory Authority</u>
Cumulative Voting System Fund	Ind. Code § 3-11-6-9
Cumulative Channel Maintenance Fund	Ind. Code § 8-10-5-17
Cumulative Bridge Fund	Ind. Code § 8-16-3
Major Bridge Fund	Ind. Code § 8-16-3.1
Airport Cumulative Fund	Ind. Code § 8-22-3-25
Cumulative Levee Fund (Vanderburgh Co.)	Ind. Code § 14-27-6-48
Cumulative Improvement Fund	Ind. Code § 14-33-21
Cumulative Hospital Sinking Fund	Ind. Code § 16-22-4
Cumulative Hospital Fund	Ind. Code § 16-22-8-41
Cumulative Fire Fund	Ind. Code § 36-8-14
Cumulative Transportation Fund	Ind. Code § 36-9-4-48
Cumulative Courthouse Fund	Ind. Code § 36-9-14
Cumulative Capital Development (County Unit)	Ind. Code § 36-9-14.5
Cumulative Jail Fund	Ind. Code § 36-9-15
Cumulative Capital Development (Municipality)	Ind. Code § 36-9-15.5
Cumulative Building, Sinking, or Capital Improvement Fund	Ind. Code § 36-9-16-5
Cumulative General Improvement Fund	Ind. Code § 36-9-17-3
Cumulative Township Vehicle and Building Fund	Ind. Code § 36-9-17.5
Cumulative Building Fund for Municipal Sewers	Ind. Code § 36-9-26
Cumulative Drainage Fund	Ind. Code § 36-9-27-99
Cumulative Park Fund (County and Municipality)	Ind. Code § 36-10-3-21
Cumulative Park Fund (Certain Cities)	Ind. Code § 36-10-4-36
Township Cumulative Park Fund	Ind. Code § 36-10-7.5-19

In addition to complying with the budget, tax rate, and tax levy requirements of IC 6-1.1-17, the following steps must be taken when establishing a cumulative fund or increasing the rate of an established fund. If the establishment is not in compliance with IC 6-1.1-41 and this bulletin, a tax may not be levied in the ensuing year.

## **STEP 1: PUBLICATION OF NOTICE TO TAXPAYERS**

If a political subdivision (“unit”) decides to levy for a cumulative fund, it must hold a public hearing on a proposal to establish the fund rate by the publication of a Notice to Taxpayers describing the tax levy to be imposed (see Appendix A), which must be published two times, at least seven days apart, with the first publication being at least ten days before the public hearing and the second at least three days before the public hearing in accordance with IC 5-3-1-2(f). The notice must be published in two newspapers, if available, in accordance with IC 5-3-1-4 (see Appendix B). If the fund is for a Cumulative Voting System (IC 3-11-6) or Cumulative Channel Maintenance (IC 8-10-5-17), notice of the proposal and the public hearing must also be posted in three public places within the political subdivision.

## **STEP 2: PUBLIC HEARING & ADOPTION OF RESOLUTION/ORDINANCE**

The adopting body for the unit must conduct a public hearing on the proposed cumulative fund on the date, time, and location as indicated in the Notice to Taxpayers. At this meeting, taxpayers of the affected taxing district(s) have the right to be heard. Upon completion of the public hearing, the adopting body must vote whether to pass a resolution/ordinance (see Appendix C) adopting the proposed cumulative fund as presented or at a lesser rate.

## **STEP 3: SUBMISSION TO THE DEPARTMENT**

A unit that adopts a proposed cumulative fund pursuant to IC 6-1.1-41 must submit the proposal to the Department for approval before August 2 (postmarked not later than August 1) of the year preceding the year in which the proposed levy takes effect. The following must be submitted to the Department:

- Procedure Checklist (see Appendix D)
- Resolution/Ordinance of Adopting Body
- Proofs of Publication (and proofs of posting, if required) of Notice to Taxpayers

## **STEP 4: REVIEW BY THE DEPARTMENT**

The cumulative fund proposal will be reviewed by the Department for completeness. If the proposal contains errors or proper procedure has not been followed, the packet will be returned to the fiscal officer of the adopting unit for correction, provided that the time constraints outlined in Step 3 can be met.

## **STEP 5: PUBLICATION OF NOTICE OF SUBMISSION**

The Department must require that a Notice of Submission be given to affected taxpayers. This notice will be prepared by the Department and mailed to the unit. The unit must publish the Notice of Submission one time in one newspaper. If the fund is for a Cumulative Voting System (IC 3-11-6) or for Cumulative Channel Maintenance (IC 8-10-5), the notice shall also be posted in three public places in the political subdivision.

## **STEP 6: TAXPAYER OBJECTION: SUBMISSION TO DEPARTMENT**

If the required number of taxpayers do not file an objection petition by the end of the 30-day remonstrance period, the unit must forward the proof of publication of the Notice to Taxpayers and proofs of posting (if required) to the Department, along with the county auditor's Certificate of No Objection (see Appendix E). It is the responsibility of the applying taxing unit to secure a Certificate of No Objection from the county auditor. The unit must provide proof of publication of the Notice of Submission to the auditor to verify that the proper time for filing objections has passed.

## **STEP 7: CUMULATIVE FUND IS LEVIED**

The approved cumulative fund may be levied beginning with the first annual tax levy after approval or in the year stated in the Department approving order. Cumulative funds, with the exception of those provided for by IC 16-22-5-4 and IC 36-9-16-4, do not expire and may be levied from year to year as long as they are advertised annually with the annual budget or are not time-limited by the establishing resolution/ordinance.<sup>1</sup> For Cumulative Capital Development Funds, the unit's fiscal body may specify in its establishing resolution the rates for year one, year two, year three, and thereafter. This method will allow for 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. (See Appendix F and Appendix G.)

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 again be established 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 Department will apply the rate cap calculations to all cumulative funds as listed in this bulletin. The maximum property tax rate levied must be adjusted each time a reassessment of property takes affect. When a cumulative fund is established, the Department order will reflect the (statutory) rate adopted by the unit. The Budget Order will reflect the cap rate adjustment pursuant to IC 6-1.1-18.5-9.8.

## **OBJECTION PETITIONS**

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 30-day remonstrance period after publication of the Notice of Submission, setting forth their objections to the proposed rate. Exceptions to the thirty-day remonstrance period are limited to: the Cumulative Building and Capital Improvement Fund (IC 36-9-16-5) and the Cumulative Building for Hospitals Fund (IC 16-22-5-4). Only these two funds require a 10-day remonstrance period. Pursuant to IC 6-1.1-41, the number of signatures required for a valid objection petition is specific to each type of cumulative fund as follows:

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<sup>1</sup> Cumulative funds established under IC 16-22-5-2 and IC 16-23-1-40 also expire by statute, but they are not governed by IC 6-1.1-41.

<u>Cumulative Fund</u>	<u>Minimum Number of Taxpayers</u>	
Cumulative Voting System Fund	Ind. Code § 3-11-6	100
Cumulative Channel Maintenance Fund	Ind. Code § 8-10-5	10
Cumulative Bridge Fund	Ind. Code § 8-16-3	10
Major Bridge Fund	Ind. Code § 8-16-3.1	10
Airport Cumulative Fund	Ind. Code § 8-22-3	50
Cumulative Levee Fund (Vanderburgh Co.)	Ind. Code § 14-27-6	10
Cumulative Improvement Fund	Ind. Code § 14-33-21	10
Cumulative Hospital Sinking Fund	Ind. Code § 16-22-4	20
Cumulative Hospital Fund	Ind. Code § 16-22-5	25
Cumulative Fire Fund	Ind. Code § 36-8-14	10
Cumulative Transportation Fund	Ind. Code § 36-9-4	10
Cumulative Courthouse Fund	Ind. Code § 36-9-14	50
Cumulative Capital Development (County Unit)	Ind. Code § 36-9-14.5	50
Cumulative Jail Fund	Ind. Code § 36-9-15	50
Cumulative Capital Development (Municipality)	Ind. Code § 36-9-15.5	50
Cumulative Building and Capital Improvement Fund	Ind. Code § 36-9-16	50
Cumulative General Improvement Fund	Ind. Code § 36-9-17	50
Cumulative Township Vehicle and Building Fund	Ind. Code § 36-9-17.5	50
Cumulative Bldg. Fund for Municipal Sewers	Ind. Code § 36-9-26	50
Cumulative Drainage Fund	Ind. Code § 36-9-27	50
Cumulative Park Fund (County and Municipality)	Ind. Code § 36-10-3	30
Cumulative Park Fund (Certain Cities)	Ind. Code § 36-10-4	10
Township Cumulative Park Fund	Ind. Code § 36-10-7.5	30

The county auditor must immediately certify the objecting petition(s) to the Department by verifying:

- a) the number of taxpayers on the petition and counterparts who are property owners within 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 a petition is certified by the county auditor to the Department, the Department must fix a date for hearing within a reasonable time after receipt of the objection. Notice of the hearing, under the signature of the Commissioner of the Department, must be given to the county auditor and the first ten taxpayers whose names appear on the petition at least five days before the date of the hearing. A hearing will be conducted in the county by a hearing officer of the Department at which time all affected taxpayers will have the right to be heard. Testimony will be accepted from those in opposition to, as well as those in favor of, the proposed cumulative fund. The hearing officer will submit a report on the hearing to the Commissioner. The Department must certify approval, disapproval, or modification of the proposal to the county auditor. The action of the Department with respect to the proposed levy is final.

In the years following the year of adoption of the cumulative fund, 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 of the year following the imposition of the levy.

### **ADDITIONAL INFORMATION**

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

If the unit establishing the fund decides that the purposes for which the fund was established have been accomplished or no longer exist or the unit rescinds the tax levy for the fund, the governing body establishing the fund for the unit 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.

### **QUESTIONS?**

Questions regarding this bulletin or matters pertaining to the establishment of a cumulative fund should be directed to Dan Jones, Assistant Director of the Budget Division, at (317) 232-0651 or [djones@dlgf.in.gov](mailto:djones@dlgf.in.gov) (or faxed to (317) 232-8779).

APPENDIX A

NOTICE TO TAXPAYERS OF HEARING ON PROPOSED  
CUMULATIVE \_\_\_\_\_ FUND  
(Name of Fund)

Notice is hereby given the taxpayers of \_\_\_\_\_,  
(Name of Unit)  
\_\_\_\_\_, County, Indiana, that the \_\_\_\_\_  
(County Name) (Name of Adopting Body)  
will consider at \_\_\_\_\_  
(Location of Meeting)

at \_\_\_\_\_ o'clock am/pm on \_\_\_\_\_, 2\_\_\_\_, the establishment of  
(Time) (Day and Month) (Year)  
a Cumulative \_\_\_\_\_ Fund under the provisions of Indiana  
Code

(Name of Fund)  
\_\_\_\_\_ for the purposes as follows:  
(Code Citation)

*{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 \_\_\_\_\_."} (Do not publish this statement "as is.")*

The tax will be levied on all taxable real and personal property within the taxing district and will not exceed \$ \_\_\_\_\_ per \$100 of assessed valuation. The proposed fund will be levied  
(Adopted Rate)

beginning with taxes due and payable in the year 2\_\_\_\_. Taxpayers appearing at such hearing shall have the right to be heard thereon. The proposal for establishment of the Cumulative \_\_\_\_\_ Fund is subject to approval by the Department of Local  
(Name of Fund)

Government Finance, which will require a Notice of Submission to be given to the taxpayers by publication.

Upon publication of the Notice of Submission, \_\_\_\_\_ or more taxpayers in the taxing district may file a petition with the County Auditor not later than thirty (30) days after publication, setting forth their objections to the proposed levy.

Dated this \_\_\_\_\_, day of \_\_\_\_\_, 2\_\_\_\_

\_\_\_\_\_  
(Adopting Body)  
\_\_\_\_\_  
\_\_\_\_\_

**APPENDIX B**

**PUBLICATION REQUIREMENTS IC 5-3-1-4**

Sec. 4. (a) Whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, they shall publish the notice in two (2) newspapers published in the political subdivision.

(b) This subsection applies to notices published by county officers. If there is only one (1) newspaper published in the county, then publication in that newspaper alone is sufficient.

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication shall be made in a newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality or school corporation. The notice shall be posted:

(1) at or near the city or town hall or school administration building; or

(2) at the:

(A) public building where the governing body of the respective city, town, or school corporation meets; or

(B) post office in the municipality or school corporation (or at the bank if there is no post office); if the municipality does not have a city or town hall, or the school corporation does not have an administration building.

(d) This subsection applies to notices published by officers of political subdivisions not covered by subsection (a) or (b), including township officers. If there is only one (1) newspaper published in the political subdivision, then the notice shall be published in that newspaper and if another newspaper is published in the county and circulates within the political subdivision in the other newspaper. If no newspaper is published in the political subdivision, then publication shall be made in a newspaper published in the county and that circulates within the political subdivision.

(e) This subsection applies to a political subdivision, including a city, town, or school corporation. Notwithstanding any other law, if a political subdivision has territory in more than one (1) county, public notices that are required by law or ordered to be published must be given as follows:

(1) By publication in two (2) newspapers published within the boundaries of the political subdivision.

(2) If only one (1) newspaper is published within the boundaries of the political subdivision, by publication in that newspaper and in some other newspaper:

(A) published in any county in which the political subdivision extends; and

(B) that has a general circulation in the political subdivision.

(3) If no newspaper is published within the boundaries of the political subdivision, by publication in two (2) newspapers that:

(A) are published in any counties into which the political subdivision extends; and

(B) have a general circulation in the political subdivision.

(4) If only one (1) newspaper is published in any of the counties into which the political subdivision extends, by publication in that newspaper if it circulates within the political subdivision.

(f) A political subdivision may, in its discretion, publish public notices in a qualified publication or additional newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the political subdivision.

APPENDIX C

**ORDINANCE/RESOLUTION ESTABLISHING  
CUMULATIVE \_\_\_\_\_ FUND**

(Name of Fund)

**Under Indiana Code \_\_\_\_\_**  
(Code Citation)

**BE IT RESOLVED** by the \_\_\_\_\_  
(Adopting Body)

of \_\_\_\_\_, County, Indiana that a need now exists for the establishment  
(Name of County)

of a Cumulative \_\_\_\_\_ Fund for the following purposes:  
(Name of Fund)

*{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 \_\_\_\_\_." } (Do not publish this statement "as is.")*

**BE IT FURTHER RESOLVED** that this Board will adhere to the provisions of Indiana Code \_\_\_\_\_. The proposed fund will not exceed \$\_\_\_\_\_ on each \$100 of assessed valuation. Said tax rate will be levied beginning with taxes for 2\_\_\_\_\_ payable 2\_\_\_\_\_.

**BE IT FURTHER RESOLVED** that proofs of publication of the public hearing held on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, 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. This 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 \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.  
(Adopting Body)

**AYE**

**NAY**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Attest:** \_\_\_\_\_, **Fiscal Officer**

**APPENDIX D**

**PROCEDURE CHECKLIST**

(Submit this form to the Department of Local Government Finance with proof of publication of Notice to Taxpayers and the adopting resolution/ordinance.)

TAXING UNIT: \_\_\_\_\_ COUNTY: \_\_\_\_\_

CUMULATIVE FUND: \_\_\_\_\_

CODE CITATION: IC \_\_\_\_\_

YEAR TO BE FIRST LEVIED 2 \_\_\_\_\_ PAY 2 \_\_\_\_\_

NOTICE TO TAXPAYERS:

1<sup>st</sup> Publication: \_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)  
\_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)

2<sup>nd</sup> 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: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PHONE NUMBER: \_\_\_\_\_

E-MAIL ADDRESS (optional) \_\_\_\_\_

APPENDIX E

CERTIFICATE OF NO OBJECTION

I, \_\_\_\_\_, Auditor of  
(Auditor's Name)

\_\_\_\_\_, County, Indiana, do hereby certify that there were no  
(County Name)

remonstrances filed on the proposed Cumulative \_\_\_\_\_ Fund  
(Name of Fund)

as adopted by the \_\_\_\_\_  
(Name of Adopting Body)

on \_\_\_\_\_, 2\_\_\_\_\_. Notice of Submission to the Department of Local  
(Day/Month) (Year)

Government Finance was published on \_\_\_\_\_  
(Date(s) of Publication)

in the \_\_\_\_\_ newspaper.  
(Name of Newspaper(s))

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
Auditor

APPENDIX F

ORDINANCE/RESOLUTION ESTABLISHING  
CUMULATIVE CAPITAL DEVELOPMENT FUND  
UNDER INDIANA CODE \_\_\_\_\_  
(CODE CITATION)

BE IT RESOLVED by the \_\_\_\_\_  
(Adopting Body)  
of \_\_\_\_\_, County, Indiana that a need now exists for the establishment  
(Name of County)

a Cumulative Capital Development 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 \_\_\_\_\_."} (Do not publish this statement "as is.")*

BE IT FURTHER RESOLVED that this Board will adhere to the provisions of  
Indiana Code \_\_\_\_\_. The proposed fund will not exceed:

\$ \_\_\_\_\_ per \$100 of assessed valuation beginning with taxes payable in 20 \_\_\_\_\_,  
\$ \_\_\_\_\_ per \$100 of assessed valuation payable in 20 \_\_\_\_\_, and  
\$ \_\_\_\_\_ per \$100 of assessed valuation payable in 20 \_\_\_\_\_ and thereafter, continuing until  
reduced or rescinded.

BE IT FURTHER RESOLVED that proofs of publication of the public hearing held  
on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, 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. This 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  
\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.  
(Adopting Body)

AYE

NAY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attest: \_\_\_\_\_, Fiscal Officer

APPENDIX G

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED CUMULATIVE CAPITAL DEVELOPMENT FUND**

Notice is hereby given the taxpayers of \_\_\_\_\_, \_\_\_\_\_, County, Indiana, that the \_\_\_\_\_ will meet at \_\_\_\_\_

(Name of Unit)

(County Name)

(Name of Adopting Body)

\_\_\_\_\_ o'clock am/pm on \_\_\_\_\_, 2\_\_\_\_, at the \_\_\_\_\_

(Time)

(Month/Day)

(Year)

\_\_\_\_\_ for the establishment of a Cumulative Capital Development \_\_\_\_\_

(Location)

Fund under the provisions of Indiana Code \_\_\_\_\_ for the purposes as follows: \_\_\_\_\_

(Insert Code Citation)

*{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 \_\_\_\_\_."} (Do not publish this statement "as is.")*

The tax will be levied on all taxable real and personal property within the taxing district and will not exceed:

- \$ \_\_\_\_\_ per \$100 of assessed valuation payable in 20\_\_\_\_,
- \$ \_\_\_\_\_ per \$100 of assessed valuation payable in 20\_\_\_\_, and
- \$ \_\_\_\_\_ per \$100 of assessed valuation payable in 20\_\_\_\_, and thereafter,

continuing until reduced or rescinded. Taxpayers appearing at such hearing shall have the right to be heard thereon. The proposal for establishment of the Cumulative Capital Development Fund is subject to approval by the Department of Local Government Finance, which will require a Notice of Submission to be given to the taxpayers by publication.

Upon publication of the Notice of Submission, fifty (50) or more taxpayers in the taxing district may file a petition with the County Auditor not later than thirty (30) days after publication, setting forth their objections to the proposed levy.

Dated this \_\_\_\_\_, day of \_\_\_\_\_, 2\_\_\_\_

\_\_\_\_\_  
(Adopting Body)  
\_\_\_\_\_  
\_\_\_\_\_