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# STATE OF INDIANA

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INDIANA BOARD OF TAX REVIEW

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Brian Bailey  
Director  
State Budget Agency  
212 State House  
Indianapolis, IN 46204-2796

Dear Mr. Bailey:

Attached please find the FY 2016-2017 biennial budget proposal for the Indiana Board of Tax Review. The Board's proposal explains the funding needed to support its mission to conduct an impartial review of property tax appeals.

## AGENCY OVERVIEW

### Background

The Indiana Board of Tax Review ("the Board") handles appeals of property tax assessments and operates as an administrative law court. It is the "middle" level of the appeal process. A taxpayer who disagrees with an assessment first appeals at the county level. If dissatisfied with the county board's decision, the taxpayer may appeal to the Board. If dissatisfied with the Board's decision, the taxpayer may appeal to the Tax Court.

The Board consists of a three-person board of commissioners who serve full-time. The commissioners act as the agency executives and render the decisions on all appeals before the Board. They are appointed by the governor and serve staggered 4-year terms. At full staffing, the Board has thirteen administrative law judges who are assigned to conduct hearings and prepare draft opinions for review by the commissioners.

The Board's offices are located in Indianapolis on the 10th floor of the Government Center North. But as a service to taxpayers and local officials, its hearings are typically conducted in the county where the property is located. Our ALJs travel across the state, and some are based outside of Indianapolis. The larger and more complex hearings are typically held in Indianapolis, regardless of the location of the property.

### Mission Statement

The Board's mission is to promptly decide property tax appeals in a fair and just manner consistent with the parties' due process rights and rules governing property tax assessments in Indiana to protect the interests of all Indiana property owners by ensuring that property tax appeals are heard promptly and decided fairly.

## Summary of Budget Request and Allocation

The Board is requesting from the general fund an allocation of \$1,121,687. Over 95% of the Board's budget is used for payroll. The major operating expenses are IOT seat charges, centralized accounting and HR, administrative law judge travel expenses, and office supplies.

### 1. Agency Programs and Functions

- a. The Board's primary function is to determine property tax appeals. The appeals are from determinations by local assessing officials or the DLGF.

Property Tax Appeals from the County Property Tax Assessment Board of Appeals ("PTABOA") and other assessing officials. The Board conducts an impartial review of all appeals concerning: (1) the assessed valuation of tangible property; (2) property tax deductions; (3) property tax exemptions; or (4) property tax credits, made from a determination by an assessing official or PTABOA.

Direct Appeals from DLGF assessments and reviews. The Board conducts an impartial review of all appeals of final determinations of the DLGF which include public utilities, real and personal property, and claims for refund.

- b. A secondary function is the Voluntary Resolution Program commonly referred to as "Facilitation." Under Facilitation, the Board provides one of its administrative law judges to facilitate settlement in disputes where the taxpayer has filed an appeal with the county assessor, but before it is presented to the PTABOA. The taxpayer and county assessor meet for an informal settlement conference aided by an administrative law judge who acts as a neutral facilitator to help both sides understand the strengths and weaknesses of their cases.

### 2. Accomplishments and Challenges

The Board receives on average about 2,100 new petitions each year and has about 4,500 open petitions at any given time. On average, more than 1,100 petitions are set for hearing each year, and about 1,800 come to a final resolution each year. The Board issues on average 170 written opinions each year, which are posted on its website.

In FY 2014, the Board received 2,671 petitions, the most since FY 2005. Despite receiving almost 1,000 more petitions in FY 2014 than FY 2013, the number of pending petitions only increased from 4,115 to 4,553. The Board also set 1,356 petitions for hearing, the second most in the last 8 years.

Because the Board operates like a court, how long it takes for a case to be set for hearing depends on a number of factors. Some cases require intensive discovery. Other cases may involve preliminary questions of law. Often parties will request a stay until the Board or Tax Court issues a decision in a relevant case.

It should also be noted that many taxpayers just pay the “placeholder” amount, rather than the full taxes due on the disputed assessment. This tends to operate as a disincentive for taxpayers to move their cases forward. Conversely, the assessors have innumerable more-pressing priorities and have limited resources to expend on preparing for a hearing. Counties like Marion (1,200 petitions pending) and St. Joseph (650 petitions pending), have the resources to handle only so many cases in a given year. Requests for continuances are routine, and typically the opposing party does not object.

The Board is pragmatic and schedules hearings based on a number of factors, including statutory guidelines, litigant requests, and agency resources. A party can always make a written request for a hearing, and the Board will set a date for the hearing. After the hearing, the Board works very hard to have the determination issued within 90 days.

A challenge in the last two years has been unusual personnel turnover. Two commissioners retired, three senior ALJs resigned, two ALJs died, one ALJ was terminated, and one support staff member resigned. The Board has methodically addressed the vacancies, routinely achieving budget savings by filling the positions at a lower salary. Currently, the Board has two ALJ positions that it is in the process of filling.

The evidentiary burden, as interpreted by the Tax Court, has changed the function of the Board from a review of the assessment guidelines to a more complicated review of legal and appraisal principles. As such, the Board, through attrition, has filled non-attorney ALJ positions with attorneys. Currently there are now 7 attorneys on staff. This past session the Legislature required all new ALJs to be attorneys.

The Board has contracted with a software company for a new case management system that will be completed prior to the end of 2014. The new system will streamline many areas of the process, including grouping petitions by case number, chronological case summaries, conflict checks, and statistical analysis. The Board will have instant access to a wealth of information regarding the case load that will assist in more efficient scheduling and staff allocation.

The legislative liaisons for the Board have been active during sessions in working with DLGF, OMB, and other interested parties in legislation that affects the Board. The Board gave considerable input in changes to the burden of proof for tax appeals during the 2014 Session.

For a number of years, the Board has conducted a successful internship program with the Indiana University School of Law – Indianapolis and Bloomington. Law students are paired with the Board’s Senior Administrative Law Judges for a semester. The students provide the Board with 120 hours of work. The Board does not pay the students but they receive two hours of course credit.

The Board has made changes in its record retention rules to significantly simplify the archival process.

### **3. Objectives for the Next Biennium**

The Board’s main objective for the coming biennium is to fulfill its mission statement by deciding appeals promptly and fairly, and diligently applying the law.

An ongoing objective is a further reduction of the number of open cases before the Board. With the data from the new case management system, the Board expects to make strides in efficiently assigning cases and supervising hearing officer caseloads. As the number of attorneys at the agency increases, the output is expected to similarly increase.

Another objective is an overhaul of the forms and regulations used by the Board for the purposes of simplification and statutory updates.

The Board will continue to be a resource to DLGF, OMB, and the Legislature for reforms of the property tax appeal statutes.

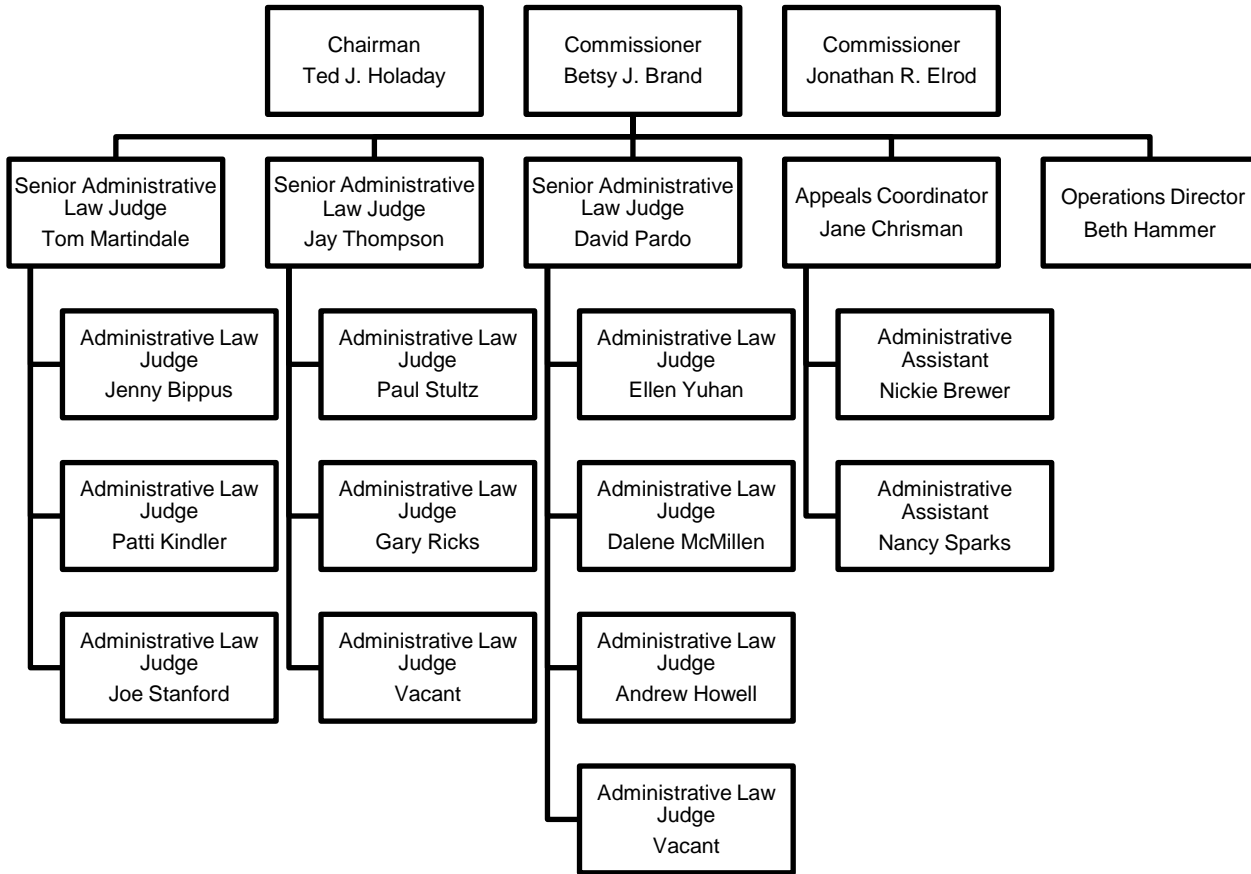
Staff training will remain an emphasis as the Board seeks consistency in the manner in which the cases are heard and decided. Training also contributes to efficiency in the process of drafting determinations.

#### **4. Key Performance Indicators**

The Board has one performance metric which measures its performance: the percentage of cases resolved without going to Tax Court. The Board has set a Green Target of 98% and a Yellow Target of 95%. In the last two years, the Board has met the Green Target four of the eight quarters. The Yellow Target was met in two quarters. The two quarters where neither the Green nor Yellow targets were met involved anomalous appeal circumstances where many cases were appealed on a single legal issue. In one quarter, a large number of common area assessments were appealed. In the other quarter, issues relating to charitable exemptions for subsidized housing were appealed.

The Board intends to review its Key Performance Indicators in light of the enhanced data from the new case management system and determine whether one or more different performance metrics would more accurately assess the Board's performance.

## 5. Organizational Chart



## 6. Programs to Be Reduced, Eliminated, or Replaced

Facilitation statutorily allows a county assessor to request an employee of the Board to assist a voluntary resolution of a tax appeal before it reaches the county board. The facilitation program began in 2010. A total of eight counties have participated in the facilitation program. The Board, partially due to the challenges of turnover and training new staff, has not actively promoted Facilitation over the last year. Because only county assessors can identify cases suitable for Facilitation and request a facilitator, the success of the program is dependent on the Board's efforts to promote the program. Necessarily, a hearing officer's work as a facilitator is an allocation of time and resources from appeals pending before the Board. The Board is evaluating how this program fits in its mission.

## **7. Reallocation of Funds**

None of the proposed objectives or changes in programs is expected to result in a reallocation of funds at this time.

Thank you for your consideration of this budget request for the 2016-2017 Biennium. On behalf of the Indiana Board of Tax Review, we look forward to discussing this request with you at your convenience.

Sincerely,

Ted J. Holaday, Chairman  
Indiana Board of Tax Review

Betsy J. Brand, Commissioner  
Indiana Board of Tax Review

Jonathan R. Elrod, Commissioner  
Indiana Board of Tax Review