

CHAPTER 8 COMPENSATION AND BENEFITS

COMPENSATION AND BENEFITS

Board Powers

IC 36-12-2-24(b) provides that "the library board shall employ and discharge librarians and other persons that are necessary in the administration of the affairs of the library. The board shall:

1. fix and pay their compensation;
2. classify them and adopt schedules of salaries; and
3. determine their number and prescribe their duties; all with the advice and recommendations of the library director."

Payments in Advance

Salaries and wages of public officers may not be paid in advance. [IC 5-7-3-1]

Compensation

All compensation and benefits paid to officials and employees must be included in the labor contract, salary ordinance, resolution or salary schedule adopted by the governing body unless otherwise authorized by statute. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements.

Compensation - Non-Employees

Payments for services provided by an organization should go directly to the organization and not to an individual employee of the organization. All payments for services should be supported by a written contract. Compensation should be made in a manner that will facilitate compliance with state and federal reporting requirements.

Employee Benefits

All types of employee benefits should be detailed in a written policy. Payments for expenses not authorized in a written policy cannot be allowed.

The board should adopt policies governing sick leave, vacation leave, and any other types of special leave.

Leave and Overtime Policy

Each governmental unit should adopt a written policy regarding the accrual and use of leave time and compensatory time and the payment of overtime. Negotiated labor contracts approved by the governing board would be considered as written policy. The policy should conform to the requirements of all state and federal regulatory agencies.

RECORD OF HOURS WORKED

IC 5-11-9-4 requires that records be maintained showing which hours are worked each day for employees employed by more than one political subdivision or in more than one position by the same public agency. This requirement can be met by indicating the number of hours worked on each Employee's Service Record, General Form No. 99A and/or General Form No. 99B.

The federal Fair Labor Standards Act (FLSA) requires that records of wages paid, daily and weekly hours of work, and the time of day and day of week on which the employee's work week begins be kept for all employees. These requirements can be met by use of the following prescribed general forms:

General Form 99A, Employee's Service Record
General Form 99B, Employee's Earnings Record
General Form 99C, Employee's Weekly Earnings Record

General Form 99C is required only for employees who are not exempt from FLSA, are not on a fixed work schedule, and are not paid weekly.

Additional information regarding FLSA rules and regulations may be obtained from the Department of Labor.

UNEMPLOYMENT COMPENSATION

Legislation was passed in 1977 amending the Indiana Employment Security Act, IC 22-4, to include the State and all its political subdivisions as employers under the act, effective January 1, 1978.

Employers may elect payment of a percentage rate on a quarterly basis or to make "payments in lieu of contributions" on a monthly basis for benefits paid out during the month. If the employer chooses the first option they pay an unemployment insurance tax on a fixed sum of wages paid to each employee during a calendar year. The political subdivision's rate will be determined by the size of their credit reserve in relation to past claims. Employers wishing to change their elected option of payment may do so upon giving proper notification to the Department of Workforce Development. Employers under each option are required to file quarterly reports on their payroll and contributions. Each employer must display posters (available from the Department of Workforce Development) where all employees can see them.

PUBLIC EMPLOYEES' RETIREMENT FUND (PERF)

Political Subdivisions may participate in the Public Employees' Retirement Fund.

The benefits specified in IC 5-10.2 provide the retirement, disability, and survivor benefits for public employees. This is the only retirement plan in which political subdivisions may participate unless the following applies:

This article does not prohibit a political subdivision from establishing and providing before January 1, 1995, and continuing to provide after January 1, 1995, retirement, disability, and survivor benefits for the public employees of the political subdivision independent of this article if the political subdivision took action before January 1, 1995 and was not a participant in the public employee's retirement fund on January 1, 1995. [IC 5-10.2-2-1]

PUBLIC EMPLOYEE DEFERRED COMPENSATION PLANS

A political subdivision may do the following:

1. agree with any employee to reduce and defer any portion of such employee's compensation which under federal law may be deferred under a nonqualified deferred compensation plan and subsequently contract for, purchase, or otherwise procure insurance and investment products appropriate for a nonqualified deferred compensation plan for the purpose of funding a deferred compensation plan for such employee;
2. contribute amounts before January 1, 1995 and continue or begin to contribute amounts after January 1, 1995 to a nonqualified deferred compensation plan on behalf of eligible employees, subject to any limits and provisions under Section 457 of the Internal Revenue Code. [IC 5-10-1.1-1]

IC 5-10-1.1-7(c) allows a political subdivision to establish and administer other plans including plans established under IC 5-10-1.1-1(2) which would include plans qualified under Sections 401(a) or 403(b) of the Internal Revenue Code.

TRAVEL POLICY

Each governmental unit should adopt a written travel policy in conformity with applicable statutes.

Reimbursement for lodging and meals should be based upon actual receipts for amounts paid unless otherwise authorized by statute.

Professional Meetings

When the interests of the library require it, the library board may authorize any member of the library board or any person in the employ of the library to be absent from the public library, and to pay out of its funds the necessary hotel and board bills and transportation expenses of such member or person while so absent in the interests of such library. [IC 36-12-3-14]

Meals, Lodging, and Transportation Expenses. When traveling outside the corporation limits on official business, board members and employees may be reimbursed for meals, lodging, and other necessary traveling expenses. The claim for reimbursement should be completely itemized and should be supported by as many receipts as it is possible to obtain. The amounts of food and lodging expense reimbursement should be fixed by the library board and entered in the board minutes as a permanent record. The library board may also set a per diem rate for meals and other necessary traveling expenses in lieu of requiring meal receipts and other miscellaneous travel receipts.

Mileage Reimbursement. Library board members and library employees may be reimbursed for actual miles traveled in their own motor vehicle on official business of the library at a reasonable rate per mile as fixed by the library board. The mileage rate should be fixed by the library board and entered into the board minutes as a permanent record.

Reimbursement for mileage should not include travel to and from the board member's or employee's home and the library in which he or she works.

If two or more persons ride in the same motor vehicle, only one mileage reimbursement is allowable.

General Form No. 101 should be used for claiming mileage. The odometer reading columns on this form are to be used only when distance between points cannot be determined by fixed mileage or official highway map.

Appropriation. Before any disbursements for reimbursement of professional meeting and traveling expenses can be made, an appropriation must be available for such purpose. Said appropriation would be made under the budget classification "Other Service and Charges," Communication and Transportation.

Fixed Travel Allowance Not Allowed. In Official Opinion No. 74 of 1953, the Attorney General held that statutes do not authorize payment of a fixed travel allowance (fixed amount regardless of the number of miles traveled) to city officers and employees. This opinion, by extensions, applies to library trustee and employees.

COMMUTING MILEAGE

Reimbursed mileage shall not include travel to and from the officer's or employee's home and the governmental office in which he works, unless otherwise authorized by statute.

MOVING AND INTERVIEW EXPENSES

The library board may adopt a policy, if desired, to reimburse prospective employees for expenses reasonably incurred while interviewing. New employees may also be reimbursed for reasonable moving expenses. The policy should include reasonable levels of reimbursement. [IC 36-12-2-24(c)]

COST SAVINGS INCENTIVE PROGRAMS

A public library may establish a program to provide incentives to employees of the library to develop and implement cost savings measures for the library. The program may include awards to employees who suggest cost savings measures to the library. If the library elects to establish such a program, it shall be established by resolution of the library board of trustees. [IC 36-1-13]

PRIVATE PROPERTY

Generally, public funds may not be used to make improvements to property not owned by the governmental unit, unless permitted by statute, federal requirements, state requirements, or safety concerns.

PERSONAL PROPERTY USE

Assets of the governmental unit may not be used in a manner unrelated to the functions and purposes of the governmental unit.

Whenever an item or other asset owned by the political subdivision is entrusted to an officer or employee, to be used at times outside the normal work time for business purposes, such as a cellular phone, or vehicle, a log should be maintained which clearly shows the business use.

PERSONAL EXPENSES

Public funds may not be used to pay for personal items or for expenses which do not relate to the functions and purposes of the governmental unit. Any personal expenses paid by the governmental unit may be the personal obligation of the responsible official or employee.

PURCHASING BONUSES

Any compensation, premium, bonus, or product earned as a result of the purchase of goods or services by the governmental unit becomes the property of the governmental unit.

SUSPENSION WITH PAY

Suspension with pay must be supported by the written opinion of the attorney for the governmental unit stating that the suspension is in accordance with all Federal laws and regulations, and State laws, including IC 35-44.1-1-3.

SEVERANCE PAY

Unless specifically authorized by statute, severance pay, or other payments to employees upon separation from employment, must be supported by the written opinion of the attorney for the governmental unit stating that the payments are in accordance with all federal laws and regulations and state laws, including IC 35-44.1-1-3, and a properly enacted Home Rule ordinance or resolution, as applicable.

IC 36-12-2-24 states that a library board may provide severance pay to a library employee who is involuntarily separated from employment with the library.

A library board may provide severance pay to a library employee who is voluntarily separated from employment with the library if the library board makes the following findings in a public meeting:

1. The library is subject to financial difficulties and revenue shortfall.
2. The library:
 - A. will not hire an individual to perform the duties of the employee separating from employment at the same or comparable compensation and benefits for at least one (1) year after the date the employee separates from employment with the library;
 - B. will hire a permanent or temporary employee for less compensation and benefits to perform the duties of the employee separating from employment; or
 - C. will satisfy both the conditions in clauses A and B.
3. The library will pay the separating employee a stated amount of severance pay.
4. The library will reduce its expenditures by:
 - A. paying the severance pay stated in Subdivision 3 to the employee separating from employment; and
 - B. fulfilling one (1) or more of the conditions set forth in Subdivision 2.

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