

## **IC 6-1.1-41**

### **Chapter 41. Cumulative Fund Tax Levy Procedures**

#### **IC 6-1.1-41-1**

##### **Application of chapter**

Sec. 1. This chapter applies to establishing and imposing a tax levy for cumulative funds under the following:

- (1) IC 3-11-6.
- (2) IC 8-10-5.
- (3) IC 8-16-3.
- (4) IC 8-16-3.1.
- (5) IC 8-22-3.
- (6) IC 14-27-6.
- (7) IC 14-33-21.
- (8) IC 16-22-4.
- (9) IC 16-22-8.
- (10) IC 36-8-14.
- (11) IC 36-9-4.
- (12) IC 36-9-14.
- (13) IC 36-9-14.5.
- (14) IC 36-9-15.
- (15) IC 36-9-15.5.
- (16) IC 36-9-16.
- (17) IC 36-9-17.
- (18) IC 36-9-17.5.
- (19) IC 36-9-26.
- (20) IC 36-9-27.
- (21) IC 36-10-3.
- (22) IC 36-10-4.
- (23) IC 36-10-7.5.
- (24) Any other statute that specifies that a property tax levy may be imposed under this chapter.

*As added by P.L.17-1995, SEC.6. Amended by P.L.129-1999, SEC.1.*

#### **IC 6-1.1-41-2**

##### **Authorization of fund and tax levies**

Sec. 2. (a) In addition to complying with the budget, tax rate, and tax levy requirements applicable to other tax levies, a political subdivision may:

- (1) establish a cumulative fund and impose a property tax for the cumulative fund; or
- (2) increase the tax rate for a cumulative fund;

only after the proposal is adopted and approved in compliance with this chapter.

(b) If an action described in this section is not adopted or approved in conformity with this chapter, the political subdivision may not levy a tax for the fund in the ensuing year.

*As added by P.L.17-1995, SEC.6.*

#### **IC 6-1.1-41-3**

**Notice of proposal; hearing**

Sec. 3. (a) A political subdivision that decides to establish a fund under this chapter must:

- (1) give notice of the proposal to the affected taxpayers; and
- (2) hold a public hearing on the proposal;

before presenting the proposal to the department of local government finance for approval.

(b) Notice of the proposal and of the public hearing shall be given by publication in accordance with IC 5-3-1.

(c) For a cumulative fund authorized under IC 3-11-6 or IC 8-10-5-17, the political subdivision imposing a property tax levy shall post a notice of the proposal and the public hearing in three (3) public places in the political subdivision.

(d) A notice required by this section must describe the tax levy that will be imposed for the fund.

*As added by P.L.17-1995, SEC.6. Amended by P.L.90-2002, SEC.274.*

**IC 6-1.1-41-4**

**Submission of proposal to department of local government finance**

Sec. 4. A political subdivision that in any year adopts a proposal under this chapter must submit the proposal to the department of local government finance before August 2 of that year.

*As added by P.L.17-1995, SEC.6. Amended by P.L.90-2002, SEC.275.*

**IC 6-1.1-41-5**

**Notice of submission**

Sec. 5. The department of local government finance shall require that a notice of submission under section 3 of this chapter be given to the taxpayers of the county. The notice shall be published in one (1) publication and posted in the same manner as required by section 3 of this chapter.

*As added by P.L.17-1995, SEC.6. Amended by P.L.90-2002, SEC.276.*

**IC 6-1.1-41-6**

**Objections to establishment of fund or increase in tax rate related to fund**

Sec. 6. Not later than noon thirty (30) days after the publication of the notice required by section 3 of this chapter:

- (1) at least ten (10) taxpayers in the taxing district, if the fund is authorized under IC 8-10-5-17, IC 8-16-3-1, IC 8-16-3.1-4, IC 14-27-6-48, IC 14-33-21-2, IC 36-8-14-2, IC 36-9-4-48, or IC 36-10-4-36;
- (2) at least twenty (20) taxpayers in a county served by a hospital, if the fund is authorized under IC 16-22-4-1;
- (3) at least thirty (30) taxpayers in a tax district, if the fund is authorized under IC 36-10-3-21 or IC 36-10-7.5-19;
- (4) at least fifty (50) taxpayers in a municipality, if subdivision

(1), (2), (3), or (5) does not apply; or  
(5) at least one hundred (100) taxpayers in the county, if the fund is authorized by IC 3-11-6;  
may file a petition with the county auditor stating their objections to an action described in section 2 of this chapter. Upon the filing of the petition, the county auditor shall immediately certify the petition to the department of local government finance.  
*As added by P.L.17-1995, SEC.6. Amended by P.L.90-2002, SEC.277.*

#### **IC 6-1.1-41-7**

##### **Hearing on objections**

Sec. 7. (a) The department of local government finance shall within a reasonable time fix a date for a hearing on a petition filed under section 6 of this chapter.

(b) For a cumulative fund authorized under IC 3-11-6 or IC 36-9-4-48, the hearing must be held in the county affected by the proposed action.

*As added by P.L.17-1995, SEC.6. Amended by P.L.90-2002, SEC.278.*

#### **IC 6-1.1-41-8**

##### **Notice of hearing**

Sec. 8. The department of local government finance shall give notice of the hearing required by section 7 of this chapter to:

- (1) the county auditor; and
- (2) the first ten (10) taxpayers whose names appear on the petition.

The notice must be given by letter signed by the commissioner or deputy commissioner of the department of local government finance and sent by mail with prepaid postage to the auditor and the taxpayers at their usual place of residence at least five (5) days before the date fixed for the hearing.

*As added by P.L.17-1995, SEC.6. Amended by P.L.90-2002, SEC.279.*

#### **IC 6-1.1-41-9**

##### **Department of local government finance action on proposal; appeal**

Sec. 9. (a) After a hearing upon a proposal, the department of local government finance shall certify approval, disapproval, or modification of the proposal to the county auditor.

(b) A:

- (1) taxpayer who signed a petition filed under section 6 of this chapter; or
- (2) political subdivision against which a petition under section 6 of this chapter is filed;

may petition for judicial review of the final determination of the department of local government finance under subsection (a). The petition must be filed in the tax court not more than forty-five (45)

days after the department certifies its action under subsection (a).  
*As added by P.L.17-1995, SEC.6. Amended by P.L.90-2002, SEC.280; P.L.256-2003, SEC.30.*

#### **IC 6-1.1-41-10**

##### **Imposition of tax levy to provide for fund**

Sec. 10. To provide for a fund, a political subdivision may levy a tax on all taxable property within the jurisdiction authorized to establish the fund. The tax may not exceed the tax rate specified in the statute authorizing the fund.

*As added by P.L.17-1995, SEC.6.*

#### **IC 6-1.1-41-11**

##### **Reduction or rescission of annual levy**

Sec. 11. If a political subdivision considers it advisable after the levy has been approved, the governing body imposing the levy for the political subdivision may reduce or rescind the annual levy.

*As added by P.L.17-1995, SEC.6.*

#### **IC 6-1.1-41-12**

##### **Petition for reduction or revision of fund levy**

Sec. 12. At least:

- (1) ten (10) taxpayers in the tax district, if the fund is authorized under IC 8-10-5-17, IC 8-16-3-1, IC 8-16-3.1-4, IC 14-27-6-48, IC 14-33-21-2, IC 36-8-14-2, IC 36-9-4-48, or IC 36-10-4-36; or
- (2) fifty (50) taxpayers in the area where a property tax for a fund is imposed, if subdivision (1) does not apply;

may file with the county auditor, by noon August 1 of a year, a petition for reduction or revision of the levy approved under this chapter. The petition must state the taxpayers' objections to the levy. The county auditor shall certify the petition to the department of local government finance, and the same procedure for notice and hearing must be followed that was required for the original levy. After a hearing on the petition, the department of local government finance may confirm, reduce, or rescind the levy. The department of local government finance's action is final and conclusive.

*As added by P.L.17-1995, SEC.6. Amended by P.L.90-2002, SEC.281; P.L.1-2010, SEC.34.*

#### **IC 6-1.1-41-13**

##### **Property tax levy**

Sec. 13. After a political subdivision complies with this chapter, a property tax may be levied annually at the tax rate approved under this chapter without further action under this chapter. The tax levy must be advertised annually as other tax levies are advertised.

*As added by P.L.17-1995, SEC.6.*

#### **IC 6-1.1-41-14**

##### **Earmarking of levied tax funds; expenditures**

Sec. 14. The tax collected for a fund must be held in the fund for

which the tax was levied. The fund may not be expended for any purpose other than the purposes specified by statute authorizing the fund. Except to the extent that IC 8-16-3-3(c), IC 14-27-6-48(c), IC 36-9-14.5-8(c), IC 36-9-15.5-8(c), or another statute specifically provides a different procedure, expenditures may be made from the fund only after an appropriation has been made in the manner provided by law for making other appropriations.

*As added by P.L.17-1995, SEC.6.*

#### **IC 6-1.1-41-15**

##### **Transfer of fund balance; revision**

Sec. 15. If the political subdivision establishing a fund:

- (1) decides that the purposes for which the fund was established have been accomplished or no longer exist; 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 political subdivision. The money in a fund does not otherwise revert to the general fund of a political subdivision at the end of the political subdivision's fiscal year.

*As added by P.L.17-1995, SEC.6.*