

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE ENROLLED ACT No. 1088

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-1.1-4-27.5, AS AMENDED BY SEA 357-2002, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. (a) The auditor of each county shall establish a property reassessment fund. The county treasurer shall deposit all collections resulting from the property taxes that the county is required to levy under this section in the county's property reassessment fund.

(b) With respect to the general reassessment of real property which is to commence on July 1, 2004, the county council of each county shall, for property taxes due in the year in which the general reassessment is to commence and the two (2) years immediately preceding that year, levy against all the taxable property of the county an amount equal to one-third (1/3) of the estimated cost of the general reassessment.

(c) With respect to a general reassessment of real property that is to commence on July 1, 2008, and each fourth year thereafter, the county council of each county shall, for property taxes due in the year that the general reassessment is to commence and the three (3) years preceding that year, levy against all the taxable property in the county an amount equal to one-fourth (1/4) of the estimated cost of the general reassessment.

(d) The department of local government finance shall give to each

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county council notice, before January 1 **in a year**, of the tax levies required by this section **for that year**.

(e) The department of local government finance may raise or lower the property ~~taxes levied~~ **tax levy** under this section for a year if the department determines it is appropriate because the estimated cost of ~~the a~~ general reassessment, **including a general reassessment to be completed for the March 1, 2002, assessment date**, has changed.

(f) If the county council determines that there is insufficient money in the county's reassessment fund to pay all expenses (as permitted under ~~section 28~~ **sections 28.5 and 32** of this chapter) relating to the general reassessment of real property commencing July 1, 2000, the county may, for the purpose of paying expenses (as permitted under ~~section 28~~ **sections 28.5 and 32** of this chapter) relating to the general reassessment commencing July 1, 2000, use money deposited in the fund from ~~taxes levied in the tax levy under this section for 2000 or~~ a later year.

SECTION 2. IC 6-1.1-4-32, AS AMENDED BY SEA 357-2002, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) **As used in this section, "contract" refers to a contract entered into under this section.**

(b) **As used in this section, "contractor" refers to a firm that enters into a contract with the department of local government finance under this section.**

(c) As used in this section, "qualifying county" means a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

~~(b)~~ (d) Notwithstanding sections 15 and 17 of this chapter, a township assessor in a qualifying county may not appraise property, or have property appraised, for the general reassessment of real property to be completed for the March 1, 2002, assessment date. Completion of that general reassessment in a qualifying county is instead governed by this section. The only duty of:

- (1) a township assessor in a qualifying county; or
- (2) a county assessor of a qualifying county;

with respect to that general reassessment is to provide to the department of local government finance or the department's contractor under subsection ~~(c)~~ (e) any support and information requested by the department or the contractor. **This subsection expires June 30, 2004.**

~~(c)~~ (e) The department of local government finance shall select and contract with a ~~nationally recognized~~ certified public accounting firm with expertise in the appraisal of real property to appraise property for the general reassessment of real property in a qualifying county to be

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completed for the March 1, 2002, assessment date. **The department of local government finance may enter into additional contracts to provide software or other auxiliary services to be used for the appraisal of property for the general reassessment.** The contract applies for the appraisal of land and improvements with respect to all classes of real property in the qualifying county. The contract must include:

- (1) a provision requiring the appraisal firm to:
 - (A) prepare a detailed report of:
 - (i) expenditures made after July 1, 1999, and before the date of the report from the qualifying county's reassessment fund under section 28 of this chapter (**repealed**); and
 - (ii) the balance in the reassessment fund as of the date of the report; and
 - (B) file the report with:
 - (i) the legislative body of the qualifying county;
 - (ii) the prosecuting attorney of the qualifying county;
 - (iii) the department of local government finance; and
 - (iv) the attorney general;
- (2) a fixed date by which the appraisal firm must complete all responsibilities under the contract;
- (3) **subject to subsection (t)**, a provision requiring the appraisal firm to use the land values determined for the qualifying county under section 13.6 of this chapter;
- (4) a penalty clause under which the amount to be paid for appraisal services is decreased for failure to complete specified services within the specified time;
- (5) a provision requiring the appraisal firm to make periodic reports to the department of local government finance;
- (6) a provision stipulating the manner in which, and the time intervals at which, the periodic reports referred to in subdivision (5) are to be made;
- (7) a precise stipulation of what service or services are to be provided;
- (8) a provision requiring the appraisal firm to deliver a report of the assessed value of each parcel in a township in the qualifying county to the department of local government finance; and
- (9) any other provisions required by the department of local government finance.

After December 31, 2001, the department of local government finance has all the powers and duties of the state board of tax commissioners provided under a contract entered into under this



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subsection (as effective before January 1, 2002) before January 1, 2002. The contract is valid to the same extent as if it were entered into by the department of local government finance. However, a reference in the contract to the state board of tax commissioners shall be treated as a reference to the department of local government finance. The contract shall be treated for all purposes, including the application of IC 33-3-5-2.5, as the contract of the department of local government finance. If the department of local government finance terminates a contract before completion of the work described in this subsection, the department shall contract for completion of the work as promptly as possible under IC 5-22-6. This subsection expires June 30, 2004.

(d) (f) At least one (1) time each month, the contractors that will make physical visits to the site of real property for reassessment purposes shall publish a notice under IC 5-3-1 describing the areas that are scheduled to be visited within the next thirty (30) days and explaining the purposes of the visit. The notice shall be published in a way to promote understanding of the purposes of the visit in the affected areas. After receiving the report of assessed values from the appraisal firm acting under a contract described in subsection (e), the department of local government finance shall give notice to the taxpayer and the county assessor, by mail, of the amount of the reassessment. The notice of reassessment is subject to appeal by the taxpayer to the Indiana board. The procedures and time limitations that apply to an appeal to the Indiana board of a determination of the department of local government finance apply to an appeal under this subsection. A determination by the Indiana board of an appeal under this subsection is subject to appeal to the tax court under IC 6-1.1-15. **This subsection expires on the later of June 30, 2004, or the date a final determination is entered in the last pending appeal filed under this subsection.**

(g) In order to obtain a review by the Indiana board under subsection (f), the taxpayer must file a petition for review with the appropriate county assessor within forty-five (45) days after the notice of the department of local government finance is given to the taxpayer under subsection (f). This subsection expires June 30, 2004.

(e) (h) The department of local government finance shall mail the notice required by subsection (d) (f) within ninety (90) days after the department receives the report for a parcel from the professional appraisal firm. **This subsection expires June 30, 2004.**

(f) (i) The **qualifying county shall pay the cost of a any contract**

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under this section **which shall be paid without appropriation** from the county property reassessment fund. of the qualifying county established under section 27 of this chapter. A contractor may periodically submit bills for partial payment of work performed under a contract. However, the maximum amount that the qualifying county is obligated to pay for all contracts entered into under subsection (e) for the general reassessment of real property in the qualifying county to be completed for the March 1, 2002, assessment date is twenty-five million five hundred thousand dollars (\$25,500,000). Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:

- (1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the work performed to the department of local government finance for review;
- (2) obtains from the department of local government finance:
 - (A) approval of the form and amount of the bill; and
 - (B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and
- (3) files with the county auditor of the qualifying county:
 - (A) a duplicate copy of the bill submitted to the department of local government finance;
 - (B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and
 - (C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication



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requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection. This subsection expires June 30, 2004.

~~(g)~~ (j) Notwithstanding IC 4-13-2, a period of seven (7) days is permitted for each of the following to review and act under IC 4-13-2 on a contract of the department of local government finance under this section:

- (1) The commissioner of the Indiana department of administration.
- (2) The director of the budget agency.
- (3) The attorney general.
- (4) The governor.

~~(h)~~ (k) With respect to a general reassessment of real property to be completed under section 4 of this chapter for an assessment date after the March 1, 2002, assessment date, the department of local government finance shall initiate a review with respect to the real property in a qualifying county or a township in a qualifying county, or a portion of the real property in a qualifying county or a township in a qualifying county. The department of local government finance may contract to have the review performed by an appraisal firm. The department of local government finance or its contractor shall determine for the real property under consideration and for the qualifying county or township the variance between:

- (1) the total assessed valuation of the real property within the qualifying county or township; and
- (2) the total assessed valuation that would result if the real property within the qualifying county or township were valued in the manner provided by law.

~~(i)~~ (l) If:

- (1) the variance determined under subsection ~~(h)~~ (k) exceeds ten percent (10%); and
- (2) the department of local government finance determines after holding hearings on the matter that a special reassessment should be conducted;



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the department shall contract for a special reassessment by an appraisal firm to correct the valuation of the property.

~~(j)~~ **(m)** If the variance determined under subsection ~~(h)~~ **(k)** is ten percent (10%) or less, the department of local government finance shall determine whether to correct the valuation of the property under:

- (1) sections 9 and 10 of this chapter; or
- (2) IC 6-1.1-14-10 and IC 6-1.1-14-11.

~~(k)~~ **(n)** The department of local government finance shall give notice by mail to a taxpayer of a hearing concerning the department's intent to cause the taxpayer's property to be reassessed under this section. The time fixed for the hearing must be at least ten (10) days after the day the notice is mailed. The department of local government finance may conduct a single hearing under this section with respect to multiple properties. The notice must state:

- (1) the time of the hearing;
- (2) the location of the hearing; and
- (3) that the purpose of the hearing is to hear taxpayers' comments and objections with respect to the department of local government finance's intent to reassess property under this chapter.

~~(l)~~ **(o)** If the department of local government finance determines after the hearing that property should be reassessed under this section, the department shall:

- (1) cause the property to be reassessed under this section;
- (2) mail a certified notice of its final determination to the county auditor of the qualifying county in which the property is located; and
- (3) notify the taxpayer by mail of its final determination.

~~(m)~~ **(p)** A reassessment may be made under this section only if the notice of the final determination under subsection ~~(k)~~ **(n)** is given to the taxpayer within the same period prescribed in IC 6-1.1-9-3 or IC 6-1.1-9-4.

~~(n)~~ **(q)** If the department of local government finance contracts for a special reassessment of property under this section, the ~~department shall forward the bill for services of the contractor to the county auditor, and the~~ **qualifying** county shall pay the bill, **without appropriation**, from the county **property** reassessment fund. **A contractor may periodically submit bills for partial payment of work performed under a contract. Notwithstanding any other law, a contractor is entitled to payment under this subsection for work performed under a contract if the contractor:**

- (1) submits, in the form required by IC 5-11-10-1, a fully itemized, certified bill for the costs under the contract of the**

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work performed to the department of local government finance for review;

(2) obtains from the department of local government finance:

(A) approval of the form and amount of the bill; and

(B) a certification that the billed goods and services billed for payment have been received and comply with the contract; and

(3) files with the county auditor of the qualifying county:

(A) a duplicate copy of the bill submitted to the department of local government finance;

(B) the proof of approval provided by the department of local government finance of the form and amount of the bill that was approved; and

(C) the certification provided by the department of local government finance that indicates that the goods and services billed for payment have been received and comply with the contract.

An approval and a certification under subdivision (2) shall be treated as conclusively resolving the merits of the claim. Upon receipt of the documentation described in subdivision (3), the county auditor shall immediately certify that the bill is true and correct without further audit, publish the claim as required by IC 36-2-6-3, and submit the claim to the county executive of the qualifying county. The county executive shall allow the claim, in full, as approved by the department of local government finance without further examination of the merits of the claim in a regular or special session that is held not less than three (3) days and not more than seven (7) days after completion of the publication requirements under IC 36-2-6-3. Upon allowance of the claim by the county executive, the county auditor shall immediately issue a warrant or check for the full amount of the claim approved by the department of local government finance. Compliance with this subsection shall be treated as compliance with section 28.5 of this chapter, IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and payment of a claim in compliance with this subsection is not subject to remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply to a claim under this subsection. IC 5-11-10-1.6(d) applies to a fiscal officer who pays a claim in compliance with this subsection.

(~~o~~) (r) A township assessor in a qualifying county or a county assessor of a qualifying county official (as defined in IC 33-3-5-2.5) shall provide information requested in writing by the department of

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local government finance or the department's contractor under this section not later than seven (7) days after receipt of the written request from the department or the contractor. If a ~~township assessor or county assessor~~ **qualifying official (as defined in IC 33-3-5-2.5)** fails to provide the requested information within the time permitted in this subsection, the department of local government finance or the department's contractor may seek an order of the tax court under IC 33-3-5-2.5 for production of the information.

~~(p)~~ **(s)** The provisions of this section are severable in the manner provided in IC 1-1-1-8(b).

(t) A contract entered into under subsection (e) is subject to this subsection. A contractor shall use the land values determined for the qualifying county under section 13.6 of this chapter to the extent that the contractor finds that the land values reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. If the contractor finds that the land values determined for the qualifying county under section 13.6 of this chapter do not reflect the true tax value of land, the contractor shall determine land values for the qualifying county that reflect the true tax value of land, as determined under the statutes and the rules of the department of local government finance. The land values determined by the contractor shall be used to the same extent as if the land values had been determined under section 13.6 of this chapter. The contractor shall notify the county assessor and the township assessors in the qualifying county of the land values as modified under this subsection. This subsection expires June 30, 2004.

(u) A contractor acting under a contract under subsection (e) may notify the department of local government finance if:

- (1) the county auditor fails to:**
 - (A) certify the bill;**
 - (B) publish the claim;**
 - (C) submit the claim to the county executive; or**
 - (D) issue a warrant or check;**

as required in subsection (i) at the first opportunity the county auditor is legally permitted to do so;

- (2) the county executive fails to allow the claim as required in subsection (i) at the first opportunity the county executive is legally permitted to do so; or**

- (3) a person or entity authorized to act on behalf of the county takes or fails to take an action, including failure to request an appropriation, and that action or failure to act delays or halts**

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the process under this section for payment of a bill submitted by a contractor under subsection (i).

This subsection expires June 30, 2004.

(v) The department of local government finance, upon receiving notice under subsection (u) from the contractor, shall:

(1) verify the accuracy of the contractor's assertion in the notice that:

(A) a failure occurred as described in subsection (b)(1) or (b)(2); or

(B) a person or entity acted or failed to act as described in subsection (b)(3); and

(2) provide to the treasurer of state the department of local government finance's approval under subsection (i)(2)(A) of the bill with respect to which the contractor gave notice under subsection (u).

This subsection expires June 30, 2004.

(w) Upon receipt of the approval of the department of local government finance under subsection (v), the treasurer of state shall pay the contractor the amount of the bill approved by the department of local government finance from money in the possession of the state that would otherwise be available for distribution to the qualifying county, including distributions from the property tax replacement fund or distributions of admissions taxes or wagering taxes. This subsection expires June 30, 2004.

(x) The treasurer of state shall withhold from the part attributable to the county of the next distribution to the county treasurer under IC 4-33-12-6, IC 4-33-13-5, IC 6-1.1-21-4(b), or another law the amount of any payment made by the treasurer of state to the contractor under subsection (w). Money shall be deducted first from money payable under IC 6-1.1-21.4(b) and then from all other funds payable to the qualifying county. This subsection expires June 30, 2004.

(y) Compliance with subsections (u) through (x) shall be treated as compliance with IC 5-11-10. This subsection expires June 30, 2004.

(z) IC 5-11-10-1.6(d) applies to the treasurer of state with respect to the payment made in compliance with subsections (u) through (x). This subsection and subsections (u) through (y) shall be interpreted liberally so that the state shall, to the extent legally valid, ensure that the contractual obligations of a county under this section are paid. Nothing in this subsection or subsections (u) through (y) shall be construed to create a debt of the state. This

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subsection expires June 30, 2004.

SECTION 3. IC 33-3-5-2.5, AS AMENDED BY SEA 216-2002, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) As used in this section, "qualifying county" means a county having a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000).

(b) As used in this section, "contractor" means ~~the~~ **a general reassessment, general reassessment review, or special reassessment contractor** of the department of local government finance under IC 6-1.1-4-32.

(c) As used in this section, "qualifying official" refers to any of the following:

- (1) A county assessor of a qualifying county.
- (2) A township assessor of a qualifying county.
- (3) The county auditor of a qualifying county.
- (4) The treasurer of a qualifying county.
- (5) The county surveyor of a qualifying county.
- (6) A member of the land valuation committee in a qualifying county.
- (7) Any other township or county official in a qualifying county who has possession or control of information necessary or useful for a general reassessment, general reassessment review, or special reassessment of property to which IC 6-1.1-4-32 applies, including information in the possession or control of an employee or a contractor of the official.
- (8) Any county official in a qualifying county who has control, review, or other responsibilities related to paying claims of a contractor submitted for payment under IC 6-1.1-4-32.

(d) Upon petition from

- (1) the department of local government finance or
- (2) ~~the~~ **a contractor,**

the tax court may order a ~~township assessor in a qualifying county or a county assessor of a qualifying county~~ **qualifying official** to produce information requested in writing from the ~~township assessor or county assessor~~ **qualifying official** by the department of local government finance or the contractor.

~~(d)~~ (e) If the tax court orders a ~~township assessor or county assessor~~ **qualifying official** to provide requested information as described in subsection ~~(c)~~; (d), the tax court shall order production of the information not later than fourteen (14) days after the date of the tax court's order.



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(e) **(f)** The tax court may find that any willful violation of this section by a ~~township assessor or county assessor~~ **qualifying official** constitutes a direct contempt of the tax court.

SECTION 4. IC 34-6-2-38, AS AMENDED BY P.L.250-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 38. (a) "Employee" and "public employee", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, IC 34-13-4, and IC 34-30-14, mean a person presently or formerly acting on behalf of a governmental entity, whether temporarily or permanently or with or without compensation, including members of boards, committees, commissions, authorities, and other instrumentalities of governmental entities, volunteer firefighters (as defined in IC 36-8-12-2), and elected public officials.

(b) The term also includes attorneys at law whether employed by the governmental entity as employees or independent contractors and physicians licensed under IC 25-22.5 and optometrists who provide medical or optical care to confined offenders (as defined in IC 11-8-1) within the course of their employment by or contractual relationship with the department of correction. However, the term does not include:

- (1) an independent contractor (other than an attorney at law, a physician, or an optometrist described in this section);
- (2) an agent or employee of an independent contractor;
- (3) a person appointed by the governor to an honorary advisory or honorary military position; or
- (4) a physician licensed under IC 25-22.5 with regard to a claim against the physician for an act or omission occurring or allegedly occurring in the physician's capacity as an employee of a hospital.

(c) A physician licensed under IC 25-22.5 who is an employee of a governmental entity (as defined in IC 34-6-2-49) shall be considered a public employee for purposes of IC 34-13-3-3(21).

(d) For purposes of IC 34-13-3 and IC 34-13-4, the term includes a person that engages in an act or omission before July 1, 2004, in the person's capacity as:

- (1) a contractor under IC 6-1.1-4-32;**
- (2) an employee acting within the scope of the employee's duties for a contractor under IC 6-1.1-4-32;**
- (3) a subcontractor of the contractor under IC 6-1.1-4-32 that is acting within the scope of the subcontractor's duties; or**
- (4) an employee of a subcontractor described in subdivision (3) that is acting within the scope of the employee's duties.**

SECTION 5. **An emergency is declared for this act.**

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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