

## **IC 5-11**

### **ARTICLE 11. ACCOUNTING FOR PUBLIC FUNDS**

#### **IC 5-11-1**

##### **Chapter 1. State Board of Accounts Created**

###### **IC 5-11-1-1**

###### **Establishment; members; appointment; qualifications; terms; tenure**

Sec. 1. (a) There is established a state board of accounts. The board consists of the state examiner and two (2) deputy examiners, as provided in this section.

(b) The principal officer of the board is the state examiner. To hold the office of state examiner, an individual must:

- (1) be appointed by the governor;
- (2) have the individual's appointment accepted by the legislative council in conformity with subsection (e); and
- (3) be a certified public accountant with at least five (5) years of accounting experience, including at least three (3) years of single audit experience in the public or private sector.

(c) The governor shall also appoint two (2) deputy examiners. To hold the office of deputy examiner, an individual must:

- (1) be appointed by the governor; and
- (2) be a certified public accountant.

A deputy examiner is subordinate to the state examiner. In the case of deputy examiners appointed after June 30, 2014, at least one (1) of the deputy examiners must have at least three (3) years of experience with the state board of accounts at the time of appointment.

(d) Not more than two (2) of the three (3) individuals appointed to the state board of accounts may be members of the same political party. The term of a state examiner is four (4) years. However, the term of the state examiner serving on January 1, 2014, ends December 31, 2017. Notwithstanding the expiration of the term of a state examiner, the state examiner may continue to serve as acting state examiner until a state examiner is appointed or reappointed. The term of a deputy examiner is coterminous with the term of the state examiner.

(e) The governor shall submit to the executive director of the legislative services agency in an electronic format under IC 5-14-6 the name of an individual who the governor recommends for appointment under subsection (b) along with any supporting information that the governor determines is appropriate. The executive director of the legislative services agency shall submit the governor's recommendation along with any submitted supporting information to the members of the legislative council and place the information on the Internet web site maintained by the general assembly. At a meeting open to the public, the legislative council may adopt a resolution to accept or reject a recommendation of the

governor. The legislative council may reject a recommendation with or without cause. If the legislative council fails to adopt a resolution accepting or rejecting a recommendation within forty-five (45) days after the recommendation is submitted to the executive director of the legislative services agency in an electronic format under IC 5-14-6, the recommendation shall be treated as accepted by the legislative council. The state examiner serving on January 1, 2014, shall be treated as accepted by the legislative council to the same extent as if the legislative council had adopted a resolution that accepted the state examiner's appointment.

(f) IC 4-21.5 applies to an action under this subsection. The state examiner and the deputy examiners are subject to removal by the governor for incompetency (including failure to maintain the individual's status as a certified public accountant) or for misconduct of the office. If the governor seeks to remove the state examiner under this subsection, the governor shall notify the state examiner in writing of the governor's proposed action in conformity with IC 4-21.5-3-4 and submit a copy of the notice to the executive director of the legislative services agency in an electronic format under IC 5-14-6. The notice must state the reasons for the proposed action and indicate that the state examiner has fifteen (15) days after being given notice to petition for review of the proposed action. The notice must specify that a petition for review of the proposed action must be made in writing and be submitted to the executive director of the legislative services agency in accordance with IC 4-21.5-3-7. The notice must also state that the state examiner may petition the legislative council under IC 4-21.5-3-4 for a stay of the proposed action pending final resolution of the matter. If a timely petition is filed with the executive director of the legislative services agency, the legislative council shall conduct a proceeding under IC 4-21.5 to review the petition. The determination by the legislative council is a final order. A state examiner removed from office under this subsection may petition for judicial review of a final action of the legislative council under IC 4-21.5-5 in the circuit or a superior court of Marion County. A deputy examiner removed from office under this subsection may petition for judicial review regarding the removal in the circuit or a superior court of Marion County.

(g) A vacancy in the office of state examiner or deputy examiner must be filled in the same manner provided under this section for the appointment of the vacating officer. An individual appointed to fill a vacancy serves for the remainder of the vacating individual's term. *(Formerly: Acts 1909, c.55, s.1; Acts 1915, c.72, s.1; Acts 1941, c.110, s.1; Acts 1943, c.236, s.1; Acts 1945, c.176, s.1.) As amended by Acts 1980, P.L.30, SEC.1; P.L.3-1986, SEC.7; P.L.39-1996, SEC.1; P.L.246-2005, SEC.53; P.L.104-2014, SEC.2.*

## **IC 5-11-1-2**

### **System of accounting and reporting**

Sec. 2. The state board of accounts shall formulate, prescribe, and install a system of accounting and reporting in conformity with this

chapter, which must comply with the following:

- (1) Be uniform for every public office and every public account of the same class and contain written standards that an entity that is subject to audit must observe.
- (2) Exhibit true accounts and detailed statements of funds collected, received, obligated, and expended for or on account of the public for any and every purpose whatever, and by all public officers, employees, or other individuals.
- (3) Show the receipt, use, and disposition of all public property and the income, if any, derived from the property.
- (4) Show all sources of public income and the amounts due and received from each source.
- (5) Show all receipts, vouchers, contracts, obligations, and other documents kept, or that may be required to be kept, to prove the validity of every transaction.

The state board of accounts shall formulate or approve all statements and reports necessary for the internal administration of the office to which the statements and reports pertain. The state board of accounts shall approve all reports that are published or that are required to be filed in the office of state examiner. The state board of accounts shall from time to time make and enforce changes in the system and forms of accounting and reporting as necessary to conform to law.

*(Formerly: Acts 1909, c.55, s.2; Acts 1945, c.176, s.2.) As amended by Acts 1980, P.L.30, SEC.2; P.L.3-1986, SEC.8; P.L.39-1996, SEC.2; P.L.176-2009, SEC.2.*

### **IC 5-11-1-3**

#### **Separate accounts**

Sec. 3. Separate accounts shall be kept for every appropriation or fund of the state or any municipality. Separate accounts shall also be kept for each department, undertaking, enterprise, institution, and public service industry.

*(Formerly: Acts 1909, c.55, s.3.) As amended by Acts 1980, P.L.30, SEC.3.*

### **IC 5-11-1-4**

#### **Financial reports; approval of budget or supplemental appropriation**

Sec. 4. (a) The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be in the form and content prescribed by the state examiner and filed electronically in the manner prescribed under IC 5-14-3.8-7.

(b) The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation for a political subdivision until the political subdivision files an annual report under subsection (a) for the preceding calendar year.

*(Formerly: Acts 1909, c.55, s.4.) As amended by Acts 1980, P.L.30, SEC.4; P.L.3-1986, SEC.9; P.L.44-1991, SEC.1; P.L.50-2000, SEC.2; P.L.189-2005, SEC.1; P.L.176-2009, SEC.3; P.L.172-2011, SEC.11; P.L.137-2012, SEC.8.*

#### **IC 5-11-1-5**

##### **Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-1-6**

##### **Forms of reports**

Sec. 6. The state board of accounts shall formulate, prescribe, and approve the forms for reports required to be made by this chapter. The state examiner shall annually furnish to the officers required to make reports by this chapter such printed blanks and forms, on which shall be indicated the information required, together with suitable printed instructions for filling out the same.

*(Formerly: Acts 1909, c.55, s.6.) As amended by Acts 1980, P.L.30, SEC.5.*

#### **IC 5-11-1-7**

##### **Field examiners; private examiners**

Sec. 7. (a) The state examiner shall appoint assistants not exceeding the number required to administer this article. The assistants are to be known as "field examiners" and are at all times subject to the order and direction of the state examiner. Field examiners shall inspect and examine accounts of all state agencies, municipalities, and other governmental units, entities, or instrumentalities.

(b) The state examiner may engage or allow the engagement of private examiners to the extent the state examiner determines necessary to satisfy the requirements of this article. These examiners are subject to the direction of the state examiner while performing examinations under this article.

(c) The state examiner may engage experts to assist the state board of accounts in carrying out its responsibilities under this article.

*(Formerly: Acts 1909, c.55, s.7.) As amended by Acts 1980, P.L.30, SEC.6; P.L.3-1986, SEC.10.*

#### **IC 5-11-1-8**

##### **Field examiners**

Sec. 8. All appointments of field examiners shall be made solely upon the ground of fitness and without regard to the political affiliation of the appointee. The state board of accounts is empowered to make and establish, and from time to time alter and amend, by-laws, rules and regulations for the proper enforcement of the provisions of this article and other laws placing duties and responsibilities on the state board of accounts.

*(Formerly: Acts 1909, c.55, s.8.) As amended by Acts 1980, P.L.30,*

SEC.7; P.L.100-2012, SEC.17.

**IC 5-11-1-9**

**Financial examinations; required inquiries; inefficiencies encountered; witnesses; records; process**

Sec. 9. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine all accounts and all financial affairs of every public office and officer, state office, state institution, and entity.

(b) An examination of an entity deriving:

- (1) less than fifty percent (50%); or
- (2) subject to subsection (h), at least fifty percent (50%) but less than two hundred thousand dollars (\$200,000) if the entity is organized as a not-for-profit corporation;

of its disbursements during the period subject to an examination from appropriations, public funds, taxes, and other sources of public expense shall be limited to matters relevant to the use of the public money received by the entity.

(c) The examination of an entity described in subsection (b) may be waived or deferred by the state examiner if the state examiner determines in writing that all disbursements of public money during the period subject to examination were made for the purposes for which the money was received. However, the:

- (1) Indiana economic development corporation created by IC 5-28-3 and the corporation's funds, accounts, and financial affairs; and
- (2) department of financial institutions established by IC 28-11-1-1 and the department's funds, accounts, and financial affairs;

shall be examined biennially by the state board of accounts.

(d) On every examination under this section, inquiry shall be made as to the following:

- (1) The financial condition and resources of each municipality, office, institution, or entity.
- (2) Whether the laws of the state and the uniform compliance guidelines of the state board of accounts established under section 24 of this chapter have been complied with.
- (3) The methods and accuracy of the accounts and reports of the person examined.

The examinations shall be made without notice.

(e) If during an examination of a state office under this chapter the examiner encounters an inefficiency in the operation of the state office, the examiner may comment on the inefficiency in the examiner's report.

(f) The state examiner, deputy examiners, any field examiner, or any private examiner, when engaged in making any examination or when engaged in any official duty devolved upon them by the state examiner, is entitled to do the following:

- (1) Enter into any state, county, city, township, or other public office in this state, or any entity, agency, or instrumentality, and

examine any books, papers, documents, or electronically stored information for the purpose of making an examination.

(2) Have access, in the presence of the custodian or the custodian's deputy, to the cash drawers and cash in the custody of the officer.

(3) During business hours, examine the public accounts in any depository that has public funds in its custody pursuant to the laws of this state.

(g) The state examiner, deputy examiner, or any field examiner, when engaged in making any examination authorized by law, may issue subpoenas for witnesses to appear before the examiner in person or to produce books, papers, or other records (including records stored in electronic data processing systems) for inspection and examination. The state examiner, deputy examiner, and any field examiner may administer oaths and examine witnesses under oath orally or by interrogatories concerning the matters under investigation and examination. Under the authority of the state examiner, the oral examinations may be transcribed with the reasonable expense paid by the examined person in the same manner as the compensation of the field examiner is paid. The subpoenas shall be served by any person authorized to serve civil process from any court in this state. If a witness duly subpoenaed refuses to attend, refuses to produce information required in the subpoena, or attends and refuses to be sworn or affirmed, or to testify when called upon to do so, the examiner may apply to the circuit court having jurisdiction of the witness for the enforcement of attendance and answers to questions as provided by the law governing the taking of depositions.

(h) This subsection applies to audited years beginning after June 30, 2009. The definitions in IC 20-24-1 apply throughout this subsection. Appropriations, public funds, taxes, and other sources of public money received by a nonprofit corporation as a charter school or organizer of a charter school for the purposes of a charter school may not be counted for the purpose of applying subsection (b)(2). Unless the nonprofit corporation receives other public money that would qualify the nonprofit corporation for a full examination of all accounts and financial affairs of the entity under subsection (b)(2), an examination of a charter school or organizer of a charter school must be limited to matters relevant to the use of the public money received for the charter school. This subsection does not prohibit the state examiner, personally or through the deputy examiners, field examiners, or private examiners, from examining the accounts in which appropriations, public funds, taxes, or other sources of public money are applied that are received by a nonprofit corporation as a charter school or organizer of a charter school relating to the operation of the charter school.

*(Formerly: Acts 1909, c.55, s.9; Acts 1945, c.176, s.3.) As amended by Acts 1978, P.L.2, SEC.506; Acts 1980, P.L.30, SEC.8; P.L.3-1986, SEC.11; P.L.63-1989, SEC.1; P.L.70-1995, SEC.1; P.L.39-1996, SEC.3; P.L.50-1999, SEC.1; P.L.4-2005, SEC.25;*

*P.L.213-2007, SEC.2; P.L.217-2007, SEC.2; P.L.172-2011, SEC.12; P.L.280-2013, SEC.3.*

#### **IC 5-11-1-9.5**

##### **Grounds for examination; retaliation for making sworn statement prohibited**

Sec. 9.5. (a) The state examiner may not undertake an examination of a public office, officer, or institution based on the allegation of an individual, organization, or institution that a violation of the law has occurred unless:

- (1) the individual or representative of the organization or institution makes the allegation in the form of a sworn statement that the individual or representative believes the allegation to be true; or
- (2) the state examiner has probable cause to believe that a violation of the law has occurred.

(b) A public office, officer, or institution may not retaliate against an employee of the state or a political subdivision for making the sworn statement described in subsection (a).

*As added by P.L.51-1985, SEC.1.*

#### **IC 5-11-1-9.7**

##### **Withdrawal or removal of counties from solid waste management districts**

Sec. 9.7. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine the division under IC 13-21-4-4 of the responsibility for legal obligations entered into by a joint solid waste management district upon the withdrawal or removal of a county from the district.

(b) Not later than one hundred twenty (120) days after the effective date of the withdrawal or removal, the state examiner shall issue a report of the examination under subsection (a) to:

- (1) the board of directors of the joint solid waste management district; and
- (2) the executive of the county that withdrew or was removed from the joint solid waste management district.

(c) A report under this section may be used as evidence in an action seeking to enforce the payment of legal obligations entered into by a joint solid waste management district.

*As added by P.L.74-2002, SEC.1.*

#### **IC 5-11-1-10**

##### **Failure to file report; interference with examiners; offense**

Sec. 10. A public officer who:

- (1) fails to make, verify, and file with the state examiner any report required by this chapter;
- (2) fails to follow the directions of the state examiner in keeping the accounts of the officer's office;
- (3) refuses the state examiner, deputy examiner, field examiner, or private examiner access to the books, accounts, papers,

documents, cash drawer, or cash of the officer's office; or  
(4) interferes with an examiner in the discharge of the  
examiner's official duties;  
commits a Class B infraction and forfeits office.  
*(Formerly: Acts 1909, c.55, s.10.) As amended by Acts 1978, P.L.2,  
SEC.507; P.L.3-1986, SEC.12.*

#### **IC 5-11-1-11**

##### **Records of money collected; public inspection**

Sec. 11. There shall be kept in the office of each public officer, board, commission, agency, instrumentality, and institution in this state, a record of money collected for the public treasury, the forms and records for which, for each class of offices, shall be devised and formulated by the state board of accounts. Such records as are provided for in this section shall be public records and must be accessible to the public during regular office hours.  
*(Formerly: Acts 1909, c.55, s.11.) As amended by Acts 1980, P.L.30, SEC.9.*

#### **IC 5-11-1-12**

##### **Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-1-13**

##### **Warrants or checks of state or municipality; receipts or quietus; correctness of claims**

Sec. 13. Each officer having authority to draw the warrant or check of the state or of any municipality referred to in this chapter in disbursing its funds, or who has authority to execute the receipt or quietus of the state or of such municipality in settlement with public officers or with debtors, before presenting the same for allowance to the board or other authority required to pass upon the same, shall make an examination of all claims as to their form, the authentication thereof as required by law, whether they are based upon contract or statutory authority, and as to their apparent correctness, and upon presenting the same to file therewith his certificate in writing as to such matters in respect to each and all of such claims. Where the authority to pass upon and allow such claim is lodged in such officer, he shall, before drawing a warrant or check therefor, certify to the correctness thereof over his official signature. Before issuing the receipt or quietus of the state or municipality to any debtor or any officer making settlement, he shall examine the report, account or settlement sheet upon which settlement is made, and require of such debtor or officer, or to otherwise secure, all such information, accounts, vouchers or exhibits as shall be necessary to satisfy such officer issuing such receipt or quietus of the correctness of such report, account or settlement sheet, and to certify thereon that he has made such examination and is satisfied as to its correctness, and no such warrant, check, receipt, or quietus shall be issued by any such officer until such certificate shall have been executed and filed with

such claim, report, account or settlement sheet. Where it is not practical for the officer to certify to the correctness of each revenue or claim document, the state board of accounts may prescribe other methods of preaudit to be performed before approval by the officer or his employees.

*(Formerly: Acts 1909, c.55, s.13.) As amended by Acts 1980, P.L.30, SEC.10.*

#### **IC 5-11-1-14**

##### **Salaries and traveling expenses of state examiner, deputies, and assistants**

Sec. 14. The salaries and necessary traveling expenses of the state examiner, his deputies, and assistants when engaged in the business of the state shall be paid as otherwise provided by law.

*(Formerly: Acts 1909, c.55, s.15.) As amended by Acts 1980, P.L.30, SEC.11.*

#### **IC 5-11-1-15**

##### **Bonds and crime policies for faithful performance**

Sec. 15. (a) The state examiner, deputy examiners, and field examiners shall each give bond for the faithful performance of the examiner's duties, as follows:

(1) The state examiner in the sum of five thousand dollars (\$5,000), to be approved by the governor.

(2) Each deputy examiner in the sum of three thousand dollars (\$3,000), to be approved by the governor.

(3) Each field examiner in the sum of one thousand dollars (\$1,000), to be approved by the state examiner. However, field examiners may be covered by a blanket bond or crime insurance policy endorsed to include faithful performance under IC 5-4-1-15.1 subject to approval of the state examiner.

(b) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

*(Formerly: Acts 1909, c.55, s.16; Acts 1967, c.268, s.1.) As amended by P.L.3-1986, SEC.13; P.L.49-1995, SEC.6.*

#### **IC 5-11-1-16**

##### **Definitions**

Sec. 16. (a) As used in this article, "municipality" means any county, township, city, town, school corporation, special taxing district, or other political subdivision of Indiana.

(b) As used in this article, "state" means any board, commission, department, division, bureau, committee, agency, governmental subdivision, military body, authority, or other instrumentality of the state, but does not include a municipality.

(c) As used in this article, "public office" means the office of any and every individual who for or on behalf of the state or any municipality or any public hospital holds, receives, disburses, or keeps the accounts of the receipts and disbursements of any public funds.

(d) As used in this article, "public officer" means any individual who holds, receives, disburses, or is required by law to keep any account of public funds or other funds for which the individual is accountable by virtue of the individual's public office.

(e) As used in this article, "entity" means any provider of goods, services, or other benefits that is:

- (1) maintained in whole or in part at public expense; or
- (2) supported in whole or in part by appropriations or public funds or by taxation.

The term does not include the state or a municipality (as defined in this section).

(f) As used in this article, a "public hospital" means either of the following:

- (1) An institution licensed under IC 16-21 and which is owned by the state or an agency of the state or one which is a municipal corporation. A hospital is a municipal corporation if its governing board members are appointed by elected officials of a municipality.
- (2) A state institution (as defined in IC 12-7-2-184).

(g) As used in this article, "audit committee" refers to the audit and financial reporting subcommittee of the legislative council established by IC 2-5-1.1-6.3.

*(Formerly: Acts 1909, c.55, s.17.) As amended by Acts 1980, P.L.30, SEC.12; P.L.3-1986, SEC.14; P.L.2-1992, SEC.52; P.L.2-1993, SEC.44; P.L.104-2014, SEC.3.*

#### **IC 5-11-1-17**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.521.)*

#### **IC 5-11-1-18**

##### **Examinations without notice; disclosure; offense**

Sec. 18. All examinations under this chapter shall be made without notice to the officers whose accounts are to be examined, and without notice to any clerk, deputy, employee, or other person employed in or connected with the office or the business of such an officer. A person who recklessly communicates knowledge of any proposed examination of any public account to the officer in charge of the account or to any other unauthorized person commits a Class B misdemeanor.

*(Formerly: Acts 1909, c.55, s.19.) As amended by Acts 1978, P.L.2, SEC.509.*

#### **IC 5-11-1-19**

##### **Copyrighting uniform bookkeeping system; purchase of public office supplies**

Sec. 19. No system for uniform bookkeeping or any book, record, or form which may be adopted after April 5, 1909, shall be copyrighted unless it shall be deemed expedient by the governor that a copyright be procured in the name of the state, and if any such

copyright be procured, the acceptance by the state or by any municipality of any bid for printed supplies of any sort shall operate as a license from the state to the successful bidder to manufacture any such copyrighted books, records, or forms included in such bid for public use without payment of royalty. All public books, records, and stationery used in the offices for which examination is provided in this chapter shall be purchased by the state, municipality, or institution after the manner provided by law.

*(Formerly: Acts 1909, c.55, s.20.) As amended by P.L.25-1986, SEC.36.*

#### **IC 5-11-1-20**

##### **Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-1-21**

##### **Mandatory adoption of uniform system; refusal to adopt or failure to use; offense; penalty**

Sec. 21. All public officers shall adopt and use the books, forms, records, and systems of accounting and reporting adopted by the state board of accounts, when directed so to do by the board, and all forms, books, and records shall be purchased by those officers in the manner provided by law. An officer who refuses to provide such books, forms, or records, fails to use them, or fails to keep the accounts of his office as directed by the board commits a Class C infraction and forfeits his office.

*(Formerly: Acts 1909, c.55, s.22.) As amended by Acts 1978, P.L.2, SEC.510.*

#### **IC 5-11-1-22**

##### **Existing duties; effect of chapter**

Sec. 22. The provisions of this chapter shall not be construed to relieve any officer of any duties required by law of him on April 5, 1909, with relation to the auditing of public accounts or the disbursement of public funds, but the provisions of this chapter shall be construed to be supplemental to all provisions of law existing on April 5, 1909, safeguarding the care and disbursement of public funds; and provided further, that the provisions of this chapter shall not be construed to limit or curtail the power of the governor of the state under laws existing on April 5, 1909, to make examination or investigation of any public office or to require reports therefrom.

*(Formerly: Acts 1909, c.55, s.23.) As amended by P.L.25-1986, SEC.37.*

#### **IC 5-11-1-23**

##### **Repealed**

*(Repealed by P.L.5-1988, SEC.35.)*

#### **IC 5-11-1-24**

##### **Uniform compliance guidelines for examinations and reports**

Sec. 24. (a) The state board of accounts shall establish in writing uniform compliance guidelines for the examinations and reports required by this chapter. The uniform compliance guidelines must include the standards that an entity must observe to avoid a finding that is critical of the entity for a reason other than the entity's failure to comply with a specific law.

(b) The state board of accounts may not establish guidelines for the auditing of an entity that are inconsistent with any federal audit guidelines that govern the entity.

(c) The state board of accounts must distribute the uniform compliance guidelines to each entity that the state board of accounts may audit.

(d) If the state board of accounts engages or authorizes the engagement of a private examiner to perform an examination under this chapter, the examination and report must comply with the uniform compliance guidelines established under subsection (a). If a person subject to examination under this chapter engages a private examiner, the contract with the private examiner must require the examination and report to comply with the uniform compliance guidelines established under subsection (a).

(e) The state or a municipality may not request proposals for performing examinations of an entity that is subject to examination under this chapter unless the request for proposals has been submitted to and approved by the state board of accounts.

(f) The state or a municipality may not enter into a contract with an entity subject to examination under this chapter if the contract does not permit the examinations and require the reports prescribed by this chapter.

*As added by P.L.3-1986, SEC.15. Amended by P.L.39-1996, SEC.4.*

#### **IC 5-11-1-25**

##### **Annual examinations; biennial examinations**

Sec. 25. (a) Examinations under this chapter shall be conducted annually for the following:

- (1) The state.
- (2) Cities.
- (3) Counties.
- (4) Towns with a population greater than five thousand (5,000).
- (5) Public hospitals.

(b) Subject to section 9 of this chapter, examinations under this chapter shall be conducted biennially for:

- (1) municipalities; and
- (2) entities;

that are not listed in subsection (a).

*As added by P.L.3-1986, SEC.16. Amended by P.L.2-1991, SEC.27.*

#### **IC 5-11-1-26**

##### **Examination reports; requisites; performance of public works; powers of board**

Sec. 26. (a) If a state office, municipality, or other entity has

authority to contract for the construction, reconstruction, alteration, repair, improvement, or maintenance of a public work, the state board of accounts shall include in each examination report concerning the state office, municipality, or entity:

- (1) an opinion concerning whether the state office, municipality, or entity has complied with IC 5-16-8; and
- (2) a brief description of each instance in which the state office, municipality, or entity has exercised its authority under IC 5-16-8-2(b) or IC 5-16-8-4.

(b) If a municipality or a county performs a public work by means of its own workforce under IC 36-1-12-3, the state board of accounts shall include the following in each examination report concerning the municipality or county:

- (1) An opinion concerning whether the municipality or county has complied with IC 36-1-12-3 for each public work performed by the entity's own workforce.
- (2) A brief description of each public work that the municipality or county has performed with its own workforce under IC 36-1-12-3, including a calculation of the actual cost of each public work under IC 36-1-12-3.
- (3) An opinion concerning whether the municipality or county has complied with IC 36-1-12-19 in calculating the actual costs of a public work project performed under IC 36-1-12-3.

(c) If a state agency performs a public work by means of its own workforce under IC 4-13.6-5-4, the state board of accounts shall include the following in each examination report concerning the agency:

- (1) An opinion concerning whether the agency has complied with IC 4-13.6-5-4 for each public work performed by the agency's own workforce.
- (2) A brief description of each public work that the agency has performed with its own workforce under IC 4-13.6-5-4, including a calculation of the actual cost of each public work under IC 4-13.6-5-4.
- (3) An opinion concerning whether the agency has complied with IC 4-13.6-5-4(c) in calculating the actual costs of a public work project performed under IC 4-13.6-5-4.

(d) If a state educational institution performs a public work by means of its own workforce under IC 5-16-1-1.5, the state board of accounts shall include the following in each examination report concerning the state educational institution:

- (1) An opinion concerning whether the state educational institution has complied with IC 5-16-1-1.5 for each public work performed by the state educational institution's own workforce.
- (2) A brief description of each public work that the state educational institution has performed with its own workforce under IC 5-16-1-1.5, including a calculation of the actual cost of each public work under IC 5-16-1-1.5.
- (3) An opinion concerning whether the state educational

institution has complied with IC 5-16-1-1.5 in calculating the actual costs of a public work project performed under IC 5-16-1-1.5.

(e) The state board of accounts may exercise any of its powers under this chapter concerning public accounts to carry out this section, including the power to require a uniform system of accounting or the use of forms prescribed by the state board of accounts.

*As added by P.L.63-1987, SEC.1. Amended by P.L.172-2011, SEC.13.*

#### **IC 5-11-1-27**

##### **Local government internal controls; requirements for violations**

Sec. 27. (a) As used in this section, "local government" means county, city, town, or township.

(b) In the compliance guidelines authorized under section 24 of this chapter, the state board of accounts shall define the acceptable minimum level of:

- (1) internal control standards; and
- (2) internal control procedures;

for internal control systems of local governments. The internal control standards and procedures shall be developed to promote government accountability and transparency.

(c) All erroneous or irregular variances, losses, shortages, or thefts of local government funds or property shall be reported immediately to the state board of accounts. The state board of accounts shall:

- (1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials;
- (2) determine the internal control weakness that contributed to or caused the condition; and
- (3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing:
  - (A) the method of correcting the condition; and
  - (B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition.

(d) The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the state board of accounts under subsection (c)(3)(B).

*As added by P.L.117-2011, SEC.2.*

**IC 5-11-2**

**Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

**IC 5-11-3**

**Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-4**

### **Chapter 4. Payment of State Board of Accounts for Investigation of Public Accounts**

#### **IC 5-11-4-1**

##### **Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-4-2**

##### **Field examiners; traveling expenses**

Sec. 2. Traveling expenses of field examiners shall be allowed and paid on the same basis as provided by law for other state officers and employees when engaged on assignments outside the county of their actual residence during the full period of such assignment: Provided, That examiners working outside of the county of their actual residence and returning to their homes daily shall be allowed transportation expense at the rate established by the budget committee for other state officers and employees: Provided, further, That the same transportation expense may be allowed examiners when required to travel within the county of their actual residence while engaged in two (2) or more separate assignments. Claims for such compensation and traveling expense, when approved by the state examiner, shall be filed with the auditor of state monthly, who shall draw his warrant in payment of same.

*(Formerly: Acts 1945, c.15, s.2; Acts 1955, c.48, s.1.)*

#### **IC 5-11-4-3**

##### **Expenses of investigation of public accounts; certification; reimbursements**

Sec. 3. (a) The expense of examination and investigation of accounts shall be paid by each municipality or entity as provided in this chapter.

(b) The state examiner shall not certify more often than monthly to the auditor of each county the amount chargeable to each taxing unit within the county for the expense of its examinations as provided in this chapter. Immediately upon receipt of the certified statement, the county auditor shall issue a warrant on the county treasurer payable to the treasurer of state out of the general fund of the county for the amount stated in the certificate. The county auditor shall reimburse the county general fund, except for the expense of examination and investigation of county offices, out of the money due the taxing units at the next semiannual settlement of the collection of taxes.

(c) If the county to which a claim is made is not in possession or has not collected the funds due or to be due to any examined municipality, then the certificate must be filed with and the warrant shall be drawn by the officer of the municipality having authority to draw warrants upon its funds. The municipality shall pay the warrant immediately. The money, when received by the treasurer of state, shall be deposited in the state general fund.

(d) Except as otherwise provided in this chapter, each:

- (1) taxing unit; and
- (2) soil and water conservation district;

shall be charged at the rate of forty-five dollars (\$45) per day for each field examiner, private examiner, expert, or employee of the state board of accounts who is engaged in making examinations or investigations. Except as provided in subsection (h), all other entities shall be charged the actual cost of performing the examination or investigation.

(e) The state examiner shall certify, not more often than monthly, to the proper disbursing officer the total amount of expense incurred for the examination of:

- (1) any unit of state government or entity that is required by law to bear the costs of its own examination and operating expense; or
- (2) any utility owned or operated by any municipality or any department of the municipality, if the utility is operated from revenues or receipts other than taxation.

Upon receipt of the state examiner's certificate the unit of state government, entity, or utility shall immediately pay to the treasurer of state the amount charged. The money, when received by the treasurer of state, shall be deposited in the state general fund.

(f) In addition to other charges provided in this chapter, the state examiner may charge a reasonable fee for typing and processing reports of examination in the same manner as other charges are made under this chapter.

(g) There is created a trust and agency fund in the hands of the state examiner to be used by him for the payment of the expense of typing reports of examination. Fees charged for typing reports of examination shall be deposited into the trust and agency fund.

(h) A municipality that contracts for services with a volunteer fire department may pay the cost of an examination or investigation of the volunteer fire department under this chapter.

(i) An audit of a county shall include, but not be limited to, an audit of that county's soil and water conservation district established under IC 14-32.

*(Formerly: Acts 1945, c.15, s.3.) As amended by Acts 1980, P.L.30, SEC.14; P.L.52-1983, SEC.1; P.L.3-1986, SEC.17; P.L.64-1987, SEC.1; P.L.291-2001, SEC.168; P.L.191-2003, SEC.1.*

#### **IC 5-11-4-3.5**

##### **Repealed**

*(Repealed by Acts 1981, P.L.41, SEC.72(a).)*

#### **IC 5-11-4-3.6**

##### **Payment of investigation costs by examined unit from designated funds**

Sec. 3.6. As provided in section 3 of this chapter, each of the following units of state government and eligible federal projects shall bear the direct and indirect costs of its own examination from the

following designated funds:

- (1) Indiana department of transportation (except toll project costs and expenses), bureau of motor vehicles (including branch offices), motor fuel tax division, state police department, and traffic safety functions under IC 9-27-2 from the motor vehicle account fund.
- (2) Indiana public retirement system from the public pension and retirement funds administered by the system in accordance with IC 5-10.5-6-5.
- (3) Alcohol and tobacco commission from the funds accruing to the alcoholic beverage enforcement and administration fund.
- (4) Indiana department of transportation, for the costs and expenses related to a particular toll project, from any special fund established for revenues from that project.
- (5) State fair commission from the state fair fund.
- (6) State colleges and universities from state appropriations. However, colleges and universities shall not be charged at a rate higher than that charged to local taxing units under section 3 of this chapter.
- (7) Eligible federal grants and projects from funds provided by the federal government or as are properly chargeable to the grant or project or recoverable through an indirect cost allocation recovery approved by the federal government.

*As added by Acts 1981, P.L.41, SEC.2. Amended by P.L.52-1983, SEC.2; P.L.18-1990, SEC.9; P.L.20-1990, SEC.5; P.L.2-1991, SEC.28; P.L.204-2001, SEC.11; P.L.36-2012, SEC.1.*

#### **IC 5-11-4-4**

##### **Payments without appropriation**

Sec. 4. All disbursing officers be and they are hereby authorized to make all disbursements or payments required to be made under the provisions of this chapter without any appropriation being made therefor.

*(Formerly: Acts 1945, c.15, s.4.) As amended by P.L.25-1986, SEC.38.*

## **IC 5-11-5**

### **Chapter 5. Reports of Examinations by State Board of Accounts; Recovery of Public Funds**

#### **IC 5-11-5-1**

##### **Reports of examination; copies; disclosure of examination results prohibited; attorney general actions**

Sec. 1. (a) Whenever an examination is made under this article, a report of the examination shall be made. The report must include a list of findings and shall be signed and verified by the examiner making the examination. A finding that is critical of an examined entity must be based upon one (1) of the following:

- (1) Failure of the entity to observe a uniform compliance guideline established under IC 5-11-1-24(a).
- (2) Failure of the entity to comply with a specific law.

A report that includes a finding that is critical of an examined entity must designate the uniform compliance guideline or the specific law upon which the finding is based. The reports shall immediately be filed with the state examiner, and, after inspection of the report, the state examiner shall immediately file one (1) copy with the officer or person examined, one (1) copy with the auditing department of the municipality examined and reported upon (if the subject of the report is a municipality), and one (1) copy in an electronic format under IC 5-14-6 with the legislative services agency, as staff to the audit committee and the general assembly. Upon filing, the report becomes a part of the public records of the office of the state examiner, of the office or the person examined, of the auditing department of the municipality examined and reported upon, and of the legislative services agency, as staff to the audit committee and the general assembly. A report is open to public inspection at all reasonable times after it is filed. If an examination discloses malfeasance, misfeasance, or nonfeasance in office or of any officer or employee, a copy of the report, signed and verified, shall be placed by the state examiner with the attorney general and the inspector general. The attorney general shall diligently institute and prosecute civil proceedings against the delinquent officer, or upon the officer's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(b) Before an examination report is signed, verified, and filed as required by subsection (a), the officer or the chief executive officer of the state office, municipality, or entity examined must have an opportunity to review the report and to file with the state examiner a written response to that report. If a written response is filed, it becomes a part of the examination report that is signed, verified, and filed as required by subsection (a).

(c) Except as required by subsections (b) and (d), it is unlawful for any deputy examiner, field examiner, or private examiner, before an examination report is made public as provided by this section, to make any disclosure of the result of any examination of any public

account, except to the state examiner or if directed to give publicity to the examination report by the state examiner or by any court. If an examination report shows or discloses the commission of a crime by any person, it is the duty of the state examiner to transmit and present the examination report to the grand jury of the county in which the crime was committed at its first session after the making of the examination report and at any subsequent sessions that may be required. The state examiner shall furnish to the grand jury all evidence at the state examiner's command necessary in the investigation and prosecution of the crime.

(d) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that the following conditions are satisfied, the examiner shall report the determination to the state examiner:

(1) A substantial amount of public funds has been misappropriated or diverted.

(2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of the public funds was committed by the officer or an employee of the office.

(e) After receiving a preliminary report under subsection (d), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(f) In an action under subsection (e), the attorney general may attach the defendant's property under IC 34-25-2.

(g) A preliminary report under subsection (d) is confidential until the final report under subsection (a) is issued, unless the attorney general institutes an action under subsection (e) on the basis of the preliminary report.

*(Formerly: Acts 1917, c.115, s.1.) As amended by Acts 1980, P.L.30, SEC.16; P.L.3-1986, SEC.18; P.L.39-1996, SEC.5; P.L.28-2004, SEC.57; P.L.176-2009, SEC.4; P.L.126-2012, SEC.17; P.L.136-2012, SEC.3; P.L.104-2014, SEC.4.*

## **IC 5-11-5-2**

### **Action for recovery of money**

Sec. 2. Upon the written request of the attorney-general, the prosecuting attorney of the circuit having jurisdiction of such action shall appear with the attorney-general in all causes begun by the attorney-general for the recovery of monies or for whatever purposes growing out of such examination or report, and said prosecuting attorney shall comply with all orders of the attorney-general relating to the prosecution of such suits.

*(Formerly: Acts 1917, c.115, s.2.) As amended by Acts 1978, P.L.2, SEC.511.*

### **IC 5-11-5-3**

#### **Compromise and adjustment of actions; discretion of attorney general; appeal**

Sec. 3. (a) The attorney general, by and with the consent of the state examiner and the deputy examiners, may compromise and adjust any action brought by the attorney general as required in this article. In all cases where any money comes into the attorney general's hands, the attorney general shall immediately pay the money into the treasury of the state or of the municipality to which it belongs, and shall have the money distributed among the proper funds. The attorney general may, in the attorney general's discretion, and shall, upon the order of the governor, appeal any such causes to the court of appeals or the supreme court, or both, as the case may be.

(b) The state examiner, and the field examiners and any private examiner shall use reasonable diligence in the making of investigations and in furnishing and securing evidence in connection with the prosecution of suits concerning examination reports whenever requested by the attorney general. Reasonable per diem and expenses incurred by the examiner shall be paid in the amount and in the manner provided by law in case of examinations.

*(Formerly: Acts 1917, c.115, s.3.) As amended by Acts 1980, P.L.30, SEC.17; P.L.3-1986, SEC.19.*

### **IC 5-11-5-4**

#### **Party to actions; plaintiff's right of recovery**

Sec. 4. Any action brought by the attorney general, as provided in this article, may be brought in the name, as plaintiff, of the state of Indiana, or such municipality or subdivision of the state of Indiana as it may appear is entitled to recover moneys or to secure other relief under such action. If the action is brought on an official bond or official bonds, the cause may be brought in the name of the state of Indiana on the relation of such plaintiff. In an action against a township trustee, or ex-township trustee, or upon his official bond, both the civil and school corporations may be named as plaintiff or relator in the same action, and recovery may be had for the aggregate amount due both corporations, but the court or jury trying the case shall, in the finding or verdict, state the amount due each corporation. In an action where a board of commissioners is plaintiff or relator, the plaintiff shall be entitled to recover against the delinquent officer or ex-officer, or upon his official bond or bonds, all such amounts as would be recoverable under all the laws of this state, including this chapter, in any or all actions by or upon the relation of the board of commissioners, or by or upon the relation of any county officer or other person authorized to sue for whatever funds, or for any funds of which it is the custodian and with which it is chargeable, and in case any of the funds so recovered are school funds, the court or jury

trying the case shall find and state the amount thereof. In any action brought under this article, the plaintiff shall be entitled to recover, in addition to the amount misappropriated, diverted or unaccounted for, all such penalties and interest as might be recoverable under laws other than this chapter.

The term municipality, as used in this article, shall be construed to extend to, include and mean any county, township, city, town, school corporation, special taxing district or other political subdivision of Indiana.

*(Formerly: Acts 1917, c.115, s.4.) As amended by Acts 1980, P.L.30, SEC.18.*

#### **IC 5-11-5-5**

##### **Cumulative remedies**

Sec. 5. The remedies provided for in this chapter are cumulative, and this chapter shall not be construed to abridge the rights of other officers to sue on behalf of municipalities, except to the extent that where the attorney general has brought an action under the authority of this chapter no other action shall be brought for the same matter while such action brought by the attorney general is pending, and excepting as other statutes relating thereto are expressly repealed by Acts 1917, c.115, s.7.

*(Formerly: Acts 1917, c.115, s.5.) As amended by P.L.25-1986, SEC.39.*

#### **IC 5-11-5-6**

##### **Repealed**

*(Repealed by Acts 1980, P.L.30, SEC.19.)*

#### **IC 5-11-5-7**

##### **Collecting fines, costs, and fees for statutory violations, bond forfeitures, and user's fees; compromises; collection costs; disposition of collected money**

Sec. 7. (a) The state board of accounts or a person designated in writing by it may collect any of the following:

- (1) Unpaid fines, costs, or fees that are imposed for violations of statutes defining a crime or infraction and are owed to the state or its political subdivisions.
- (2) Money owed resulting from bond forfeitures under IC 35-33-8-7.
- (3) Unpaid user's fees incurred under a pretrial diversion agreement by a person charged with a misdemeanor, infraction, or ordinance violation.

(b) The state board of accounts or its agent may compromise the amount of money owed in collecting money under this section.

(c) The costs of collection, including but not limited to reasonable attorney's fees, may be added to money that is owed and collected under this section. However, the costs of collection may not exceed an amount that is equal to the amount of money that is owed.

(d) When money is collected under this section, the state board of

accounts or its agent shall deposit the money, less the costs of collection, in accounts to the credit of the state or a political subdivision as required by law.

(e) The costs of collecting money under this section shall be determined by the state board of accounts and shall be paid from money collected.

*As added by P.L.43-1986, SEC.1. Amended by P.L.64-1989, SEC.1.*

#### **IC 5-11-5-8**

#### **Copies of reports filed with library upon request; public inspection; renewal of request**

Sec. 8. (a) Upon request of a public library, the state examiner shall file with the library (without cost to the library) a copy of each report of an examination concerning a municipality, state agency, public hospital, license branch, or other entity that is located in the same county as the library. The request must be in writing.

(b) This section does not require the state examiner to:

(1) file copies of reports completed before the receipt of a request; or

(2) file a copy of any report with more than one (1) public library located in the same county.

(c) Copies of reports filed under this section are open to public inspection during hours that the library is open to the public.

(d) After a library has been granted a request to receive copies of reports under this section, the library may continue as the repository for those reports if it files an annual renewal of its request in writing with the state board of accounts before January 15 of each year.

*As added by P.L.65-1987, SEC.1.*

## IC 5-11-5.5

### Chapter 5.5. False Claims and Whistleblower Protection

#### IC 5-11-5.5-1

##### Definitions

Sec. 1. The following definitions apply throughout this chapter:

(1) "Claim" means a request or demand for money or property that is made to a contractor, grantee, or other recipient if the state:

(A) provides any part of the money or property that is requested or demanded; or

(B) will reimburse the contractor, grantee, or other recipient for any part of the money or property that is requested or demanded.

(2) "Documentary material" means:

(A) the original or a copy of a book, record, report, memorandum, paper, communication, tabulation, chart, or other document;

(B) a data compilation stored in or accessible through computer or other information retrieval systems, together with instructions and all other materials necessary to use or interpret the data compilations; and

(C) a product of discovery.

(3) "Investigation" means an inquiry conducted by an investigator to ascertain whether a person is or has been engaged in a violation of this chapter.

(4) "Knowing", "knowingly", or "known" means that a person, regarding information:

(A) has actual knowledge of the information;

(B) acts in deliberate ignorance of the truth or falsity of the information; or

(C) acts in reckless disregard of the truth or falsity of the information.

(5) "Person" includes a natural person, a corporation, a firm, an association, an organization, a partnership, a limited liability company, a business, or a trust.

(6) "Product of discovery" means the original or duplicate of:

(A) a deposition;

(B) an interrogatory;

(C) a document;

(D) a thing;

(E) a result of the inspection of land or other property; or

(F) an examination or admission;

that is obtained by any method of discovery in a judicial or an administrative proceeding of an adversarial nature. The term includes a digest, an analysis, a selection, a compilation, a derivation, an index, or another method of accessing an item listed in this subdivision.

(7) "State" means Indiana or any agency of state government. The term does not include a political subdivision.

*As added by P.L.222-2005, SEC.23. Amended by P.L.79-2007, SEC.1.*

**IC 5-11-5.5-2**

**False claims; civil penalty; reduced penalty for certain disclosures**

Sec. 2. (a) This section does not apply to:

- (1) a claim, record, or statement concerning income tax (IC 6-3); or
- (2) a claim, request, demand, statement, record, act, or omission made or submitted after June 30, 2014, in relation to the Medicaid program described in IC 12-15.

(b) A person who knowingly or intentionally:

- (1) presents a false claim to the state for payment or approval;
- (2) makes or uses a false record or statement to obtain payment or approval of a false claim from the state;
- (3) with intent to defraud the state, delivers less money or property to the state than the amount recorded on the certificate or receipt the person receives from the state;
- (4) with intent to defraud the state, authorizes issuance of a receipt without knowing that the information on the receipt is true;
- (5) receives public property as a pledge of an obligation on a debt from an employee who is not lawfully authorized to sell or pledge the property;
- (6) makes or uses a false record or statement to avoid an obligation to pay or transmit property to the state;
- (7) conspires with another person to perform an act described in subdivisions (1) through (6); or
- (8) causes or induces another person to perform an act described in subdivisions (1) through (6);

is, except as provided in subsection (c), liable to the state for a civil penalty of at least five thousand dollars (\$5,000) and for up to three (3) times the amount of damages sustained by the state. In addition, a person who violates this section is liable to the state for the costs of a civil action brought to recover a penalty or damages.

(c) If the factfinder determines that the person who violated this section:

- (1) furnished state officials with all information known to the person about the violation not later than thirty (30) days after the date on which the person obtained the information;
- (2) fully cooperated with the investigation of the violation; and
- (3) did not have knowledge of the existence of an investigation, a criminal prosecution, a civil action, or an administrative action concerning the violation at the time the person provided information to state officials;

the person is liable for a penalty of not less than two (2) times the amount of damages that the state sustained because of the violation. A person who violates this section is also liable to the state for the costs of a civil action brought to recover a penalty or damages.

*As added by P.L.222-2005, SEC.23. Amended by P.L.109-2014,*

*SEC.1.*

**IC 5-11-5.5-3**

**Duties of inspector general and attorney general; concurrent jurisdiction to investigate; civil actions; when inspector general may bring a civil action; venue**

Sec. 3. (a) The:

- (1) attorney general; and
- (2) inspector general;

have concurrent jurisdiction to investigate a violation of section 2 of this chapter.

(b) If the attorney general discovers a violation of section 2 of this chapter, the attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(c) If the inspector general discovers a violation of section 2 of this chapter, the inspector general shall certify this finding to the attorney general. The attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(d) If the attorney general or the inspector general is served by a person who has filed a civil action under section 4 of this chapter, the attorney general has the authority to intervene in that action as set forth in section 4 of this chapter.

(e) If the attorney general:

- (1) is disqualified from investigating a possible violation of section 2 of this chapter;
- (2) is disqualified from bringing a civil action concerning a possible violation of section 2 of this chapter;
- (3) is disqualified from intervening in a civil action brought under section 4 of this chapter concerning a possible violation of section 2 of this chapter;
- (4) elects not to bring a civil action concerning a possible violation of section 2 of this chapter; or
- (5) elects not to intervene under section 4 of this chapter;

the attorney general shall certify the attorney general's disqualification or election to the inspector general.

(f) If the attorney general has certified the attorney general's disqualification or election not to bring a civil action or intervene in a case under subsection (e), the inspector general has authority to:

- (1) bring a civil action concerning a possible violation of section 2 of this chapter; or
- (2) intervene in a case under section 4 of this chapter.

(g) The attorney general shall certify to the inspector general the attorney general's disqualification or election under subsection (e) in a timely fashion, and in any event not later than:

- (1) sixty (60) days after being served, if the attorney general has been served by a person who has filed a civil action under section 4 of this chapter; or
- (2) one hundred eighty (180) days before the expiration of the statute of limitations, if the attorney general has not been served by a person who has filed a civil action under section 4 of this

chapter.

(h) A civil action brought under section 4 of this chapter may be filed in:

- (1) a circuit or superior court in Marion county; or
- (2) a circuit or superior court in the county in which a defendant or plaintiff resides.

(i) The state is not required to file a bond under this chapter.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-4**

#### **Civil action brought by person on behalf of state; dismissal; service on inspector general and attorney general; intervention by inspector general or attorney general; extension of time**

Sec. 4. (a) A person may bring a civil action for a violation of section 2 of this chapter on behalf of the person and on behalf of the state. The action:

- (1) must be brought in the name of the state; and
- (2) may be filed in a circuit or superior court in:
  - (A) the county in which the person resides;
  - (B) the county in which a defendant resides; or
  - (C) Marion County.

(b) Except as provided in section 5 of this chapter, an action brought under this section may be dismissed only if:

- (1) the attorney general or the inspector general, if applicable, files a written motion to dismiss explaining why dismissal is appropriate; and
- (2) the court issues an order:
  - (A) granting the motion; and
  - (B) explaining the court's reasons for granting the motion.

(c) A person who brings an action under this section shall serve:

- (1) a copy of the complaint; and
- (2) a written disclosure that describes all relevant material evidence and information the person possesses;

on both the attorney general and the inspector general. The person shall file the complaint under seal, and the complaint shall remain under seal for at least one hundred twenty (120) days. The complaint shall not be served on the defendant until the court orders the complaint served on the defendant following the intervention or the election not to intervene of the attorney general or the inspector general. The state may elect to intervene and proceed with the action not later than one hundred twenty (120) days after it receives both the complaint and the written disclosure.

(d) For good cause shown, the attorney general or the inspector general may move the court to extend the time during which the complaint must remain under seal. A motion for extension may be supported by an affidavit or other evidence. The affidavit or other evidence may be submitted in camera.

(e) Before the expiration of the time during which the complaint is sealed, the attorney general or the inspector general may:

- (1) intervene in the case and proceed with the action, in which

case the attorney general or the inspector general shall conduct the action; or

(2) elect not to proceed with the action, in which case the person who initially filed the complaint may proceed with the action.

(f) The defendant in an action filed under this section is not required to answer the complaint until twenty-one (21) days after the complaint has been unsealed and served on the defendant.

(g) After a person has filed a complaint under this section, no person other than the attorney general or the inspector general may:

(1) intervene; or

(2) bring another action based on the same facts.

(h) If the person who initially filed the complaint:

(1) planned and initiated the violation of section 2 of this chapter; or

(2) has been convicted of a crime related to the person's violation of section 2 of this chapter;

upon motion of the attorney general or the inspector general, the court shall dismiss the person as a plaintiff.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-5**

#### **Responsibilities of inspector general or attorney general as intervenors in civil action; venue; complainant as party; dismissal; limitations on complainant's participation; alternative proceedings**

Sec. 5. (a) If the attorney general or the inspector general intervenes in an action under section 4 of this chapter, the attorney general or the inspector general is responsible for prosecuting the action and is not bound by an act of the person who initially filed the complaint. The attorney general or the inspector general may move for a change of venue to Marion County if the attorney general or the inspector general files a motion for change of venue not later than ten (10) days after the attorney general or the inspector general intervenes. Except as provided in this section, the person who initially filed the complaint may continue as a party to the action.

(b) The attorney general or the inspector general may dismiss the action after:

(1) notifying the person who initially filed the complaint; and

(2) the court has conducted a hearing at which the person who initially filed the complaint was provided the opportunity to be heard on the motion.

(c) The attorney general or the inspector general may settle the action if a court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable in light of the circumstances. Upon a showing of good cause, the court may:

(1) conduct the settlement hearing in camera; or

(2) lift all or part of the seal to facilitate the investigative process or settlement.

The court may consider an objection to the settlement brought by the person who initially filed the complaint, but is not bound by this

objection.

(d) Upon a showing by the attorney general, the inspector general, or the defendant that unrestricted participation by the person who initially filed the complaint:

(1) will interfere with the prosecution of the case by the attorney general or the inspector general; or

(2) will involve the presentation of repetitious or irrelevant evidence, or evidence introduced for purposes of harassment; the court may impose reasonable limitations on the person's participation, including a limit on the number of witnesses that the person may call, a limit to the amount and type of evidence that the person may introduce, a limit to the length of testimony that the person's witness may present, and a limit to the person's cross-examination of a witness.

(e) If the attorney general or the inspector general elects not to intervene in the action, the person who initially filed the complaint has the right to prosecute the action. Upon request, the attorney general or the inspector general shall be served with copies of all documents filed in the action and may obtain a copy of depositions and other transcripts at the state's expense.

(f) If the attorney general and the inspector general have elected not to intervene in an action in accordance with section 4 of this chapter, upon a showing of good cause, a court may permit either the attorney general or the inspector general to intervene at a later time. The attorney general may move to intervene at any time. If the attorney general has not moved to intervene, the inspector general may move to intervene by providing written notice to the attorney general of the inspector general's intent to intervene. If the attorney general does not move to intervene earlier than fifteen (15) days after receipt of the notice of intent to intervene, the inspector general may move to intervene. If the attorney general or the inspector general intervenes under this subsection, the attorney general or the inspector general is responsible for prosecuting the action as if the attorney general or the inspector general had intervened in accordance with section 4 of this chapter.

(g) If the attorney general or inspector general shows that a specific discovery action by the person who initially filed the complaint will interfere with the investigation or prosecution of a civil or criminal matter arising out of the same facts, the court may, following a hearing in camera, stay discovery for not more than sixty (60) days. After the court has granted a sixty (60) day stay, the court may extend the stay, following a hearing in camera, if it determines that the state has pursued the civil or criminal investigation with reasonable diligence and that a specific discovery action by the person who initially filed the complaint will interfere with the state's investigation or prosecution of the civil or criminal matter.

(h) A court may dismiss an action brought under this chapter to permit the attorney general or the inspector general to pursue its claim through an alternative proceeding, including an administrative proceeding or a proceeding brought in another jurisdiction. The

person who initially filed the complaint has the same rights in the alternative proceedings as the person would have had in the original proceedings. A finding of fact or conclusion of law made in the alternative proceeding is binding on all parties to an action under this section once the determination made in the alternative proceeding is final under the rules, regulations, statutes, or law governing the alternative proceeding, or if the time for seeking an appeal or review of the determination made in the alternative proceeding has elapsed. *As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-6**

##### **Compensation to complainant; exceptions and modifications**

Sec. 6. (a) The person who initially filed the complaint is entitled to the following amounts if the state prevails in the action:

(1) Except as provided in subdivision (2), if the attorney general or the inspector general intervened in the action, the person is entitled to receive at least fifteen percent (15%) and not more than twenty-five percent (25%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(2) If the attorney general or the inspector general intervened in the action and the court finds that the evidence used to prosecute the action consisted primarily of specific information contained in:

(A) a transcript of a criminal, a civil, or an administrative hearing;

(B) a legislative, an administrative, or another public report, hearing, audit, or investigation; or

(C) a news media report;

the person is entitled to receive not more than ten percent (10%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(3) If the attorney general or the inspector general did not intervene in the action, the person is entitled to receive at least twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(4) If the person who initially filed the complaint:

(A) planned and initiated the violation of section 2 of this chapter; or

(B) has been convicted of a crime related to the person's violation of section 2 of this chapter;

the person is not entitled to an amount under this section.

After conducting a hearing at which the attorney general or the inspector general and the person who initially filed the complaint may be heard, the court shall determine the specific amount to be awarded under this section to the person who initially filed the complaint. The award of reasonable attorney's fees plus an amount

to cover the expenses and costs of bringing the action is an additional cost assessed against the defendant and may not be paid from the proceeds of the civil action.

(b) If:

(1) the attorney general or the inspector general did not intervene in the action; and

(2) the defendant prevails;

the court may award the defendant reasonable attorney's fees plus an amount to cover the expenses and costs of defending the action, if the court finds that the action is frivolous.

(c) The state is not liable for the expenses, costs, or attorney's fees of a party to an action brought under this chapter.

*As added by P.L.222-2005, SEC.23.*

### **IC 5-11-5.5-7**

#### **Lack of jurisdiction over certain civil actions brought by individual**

Sec. 7. (a) This section does not apply to an action brought by:

(1) the attorney general;

(2) the inspector general;

(3) a prosecuting attorney; or

(4) a state employee in the employee's official capacity.

(b) A court does not have jurisdiction over an action brought under section 4 of this chapter that is based on information discovered by a present or former state employee in the course of the employee's employment, unless:

(1) the employee, acting in good faith, has exhausted existing internal procedures for reporting and recovering the amount owed the state; and

(2) the state has failed to act on the information reported by the employee within a reasonable amount of time.

(c) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is brought by an incarcerated offender, including an offender incarcerated in another jurisdiction.

(d) A court does not have jurisdiction over an action brought under section 4 of this chapter against the state, a state officer, a judge (as defined in IC 33-23-11-7), a justice, a member of the general assembly, a state employee, or an employee of a political subdivision, if the action is based on information known to the state at the time the action was brought.

(e) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon an act that is the subject of a civil suit, a criminal prosecution, or an administrative proceeding in which the state is a party.

(f) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon information contained in:

(1) a transcript of a criminal, a civil, or an administrative hearing;

(2) a legislative, an administrative, or another public report,

hearing, audit, or investigation; or  
(3) a news media report;  
unless the person bringing the action has direct and independent knowledge of the information that is the basis of the action, and the person bringing the action has voluntarily provided this information to the state.

*As added by P.L.222-2005, SEC.23. Amended by P.L.1-2006, SEC.98.*

#### **IC 5-11-5.5-8**

##### **Relief for whistleblowers**

Sec. 8. (a) An employee who has been discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment by the employee's employer because the employee:

- (1) objected to an act or omission described in section 2 of this chapter; or
  - (2) initiated, testified, assisted, or participated in an investigation, an action, or a hearing under this chapter;
- is entitled to all relief necessary to make the employee whole.

(b) Relief under this section may include:

- (1) reinstatement with the same seniority status the employee would have had but for the act described in subsection (a);
- (2) two (2) times the amount of back pay owed the employee;
- (3) interest on the back pay owed the employee; and
- (4) compensation for any special damages sustained as a result of the act described in subsection (a), including costs and expenses of litigation and reasonable attorney's fees.

(c) An employee may bring an action for the relief provided in this section in any court with jurisdiction.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-9**

##### **Service of subpoena; statute of limitations; burden of proof; estoppel**

Sec. 9. (a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under this chapter may be served at any place in the state.

(b) A civil action under section 4 of this chapter is barred unless it is commenced:

- (1) not later than six (6) years after the date on which the violation is committed; or
- (2) not later than three (3) years after the date when facts material to the cause of action are discovered or reasonably should have been discovered by a state officer or employee who is responsible for addressing the false claim. However, an action is barred unless it is commenced not later than ten (10) years after the date on which the violation is committed.

(c) In a civil action brought under this chapter, the state is required to establish:

- (1) the essential elements of the offense; and
  - (2) damages;
- by a preponderance of the evidence.

(d) If a defendant has been convicted (including a plea of guilty or nolo contendere) of a crime involving fraud or a false statement, the defendant is estopped from denying the elements of the offense in a civil action brought under section 4 of this chapter that involves the same transaction as the criminal prosecution.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-10**

##### **Civil investigative demands; procedure**

Sec. 10. (a) If the attorney general or the inspector general has reason to believe that a person may be in possession, custody, or control of documentary material or information relevant to an investigation involving a false claim, the attorney general or the inspector general may, before commencing a civil proceeding under this chapter, issue and serve a civil investigative demand requiring the person to do one (1) or more of the following:

- (1) Produce the documentary material for inspection and copying.
- (2) Answer an interrogatory in writing concerning the documentary material or information.
- (3) Give oral testimony concerning the documentary material or information.

(b) If a civil investigative demand is a specific demand for a product of discovery, the official issuing the civil investigative demand shall:

- (1) serve a copy of the civil investigative demand on the person from whom the discovery was obtained; and
- (2) notify the person to whom the civil investigative demand is issued of the date of service.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-11**

##### **Civil investigative demands; specificity and contents; time periods**

Sec. 11. (a) A civil investigative demand issued under this chapter must describe the conduct constituting a violation involving a false claim that is under investigation and the statute or rule that has been violated.

(b) If a civil investigative demand is for the production of documentary material, the civil investigative demand must:

- (1) describe each class of documentary material to be produced with sufficient specificity to permit the material to be fairly identified;
- (2) prescribe a return date for each class of documentary material that provides a reasonable period of time to assemble and make the material available for inspection and copying; and
- (3) identify the official to whom the material must be made available.

(c) If a civil investigative demand is for answers to written interrogatories, the civil investigative demand must:

- (1) set forth with specificity the written interrogatories to be answered;
- (2) prescribe the date by which answers to the written interrogatories must be submitted; and
- (3) identify the official to whom the answers must be submitted.

(d) If a civil investigative demand requires oral testimony, the civil investigative demand must:

- (1) prescribe a date, time, and place at which oral testimony will be given;
- (2) identify the official who will conduct the examination and the custodian to whom the transcript of the examination will be submitted;
- (3) specifically state that attendance and testimony are necessary to the conduct of the investigation;
- (4) notify the person receiving the demand that the person has the right to be accompanied by an attorney and any other representative; and
- (5) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry.

(e) A civil investigative demand that is a specific demand for a product of discovery may not be returned until at least twenty-one (21) days after a copy of the civil investigative demand has been served on the person from whom the discovery was obtained.

(f) The date prescribed for the giving of oral testimony under a civil investigative demand issued under this chapter must be a date that is not less than seven (7) days after the date on which the demand is received, unless the official issuing the demand determines that exceptional circumstances are present that require an earlier date.

(g) The official who issues a civil investigative demand may not issue more than one (1) civil investigative demand for oral testimony by the same person, unless:

- (1) the person requests otherwise; or
- (2) the official who issues a civil investigative demand, after conducting an investigation, notifies the person in writing that an additional civil investigative demand for oral testimony is necessary.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-12**

#### **Civil investigative demands; protections from disclosure; objections**

Sec. 12. (a) A civil investigative demand issued under this chapter may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if the material, answers, or testimony would be protected from disclosure under the standards applicable:

(1) to a subpoena or subpoena duces tecum issued by a court to aid in a grand jury investigation; or  
(2) to a discovery request under the rules of trial procedure; to the extent that the application of these standards to a civil investigative demand is consistent with the purposes of this chapter.

(b) A civil investigative demand that is a specific demand for a product of discovery supersedes any contrary order, rule, or statutory provision, other than this section, that prevents or restricts disclosure of the product of discovery. Disclosure of a product of discovery under a specific demand does not constitute a waiver of a right or privilege that the person making the disclosure may be otherwise entitled to invoke to object to discovery of trial preparation materials.  
*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-13**

##### **Civil investigative demands; service**

Sec. 13. (a) A civil investigative demand issued under this chapter may be served by an investigator or by any other person authorized to serve process.

(b) A civil investigative demand shall be served in accordance with the rules of trial procedure. A court having jurisdiction over a person not located in the state has the same authority to enforce compliance with this chapter as the court has over a person located in the state.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-14**

##### **Civil investigative demands; response**

Sec. 14. (a) The production of documentary material in response to a civil investigative demand served under this chapter shall be made in accordance with Trial Rule 34.

(b) Each interrogatory in a civil investigative demand served under this chapter shall be answered in accordance with Trial Rule 33.

(c) The examination of a person under a civil investigative demand for oral testimony served under this chapter shall be conducted in accordance with Trial Rule 30.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-15**

##### **Civil investigative demands; possession of responses and transcripts; examination of responses**

Sec. 15. (a) The official who issued the civil investigative demand is the custodian of the documentary material, answers to interrogatories, and transcripts of oral testimony received under this chapter.

(b) An investigator who receives documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the official who issued the civil investigative demand. The official shall take physical possession of the material,

answers, or transcripts and is responsible for the use made of them and for the return of documentary material.

(c) The official who issued the civil investigative demand may make copies of documentary material, answers to interrogatories, or transcripts of oral testimony as required for official use by the attorney general, the inspector general, or the state police. The material, answers, or transcripts may be used in connection with the taking of oral testimony under this chapter.

(d) Except as provided in subsection (e), documentary material, answers to interrogatories, or transcripts of oral testimony, while in the possession of the official who issued the civil investigative demand, may not be made available for examination to any person other than:

- (1) the attorney general or designated personnel of the attorney general's office;
- (2) the inspector general or designated personnel of the inspector general's office; or
- (3) an officer of the state police who has been authorized by the official who issued the civil investigative demand.

(e) The restricted availability of documentary material, answers to interrogatories, or transcripts of oral testimony does not apply:

- (1) if the person who provided:
  - (A) the documentary material, answers to interrogatories, or oral testimony; or
  - (B) a product of discovery that includes documentary material, answers to interrogatories, or oral testimony; consents to disclosure;
- (2) to the general assembly or a committee or subcommittee of the general assembly; or
- (3) to a state agency that requires the information to carry out its statutory responsibility.

Documentary material, answers to interrogatories, or transcripts of oral testimony requested by a state agency may be disclosed only under a court order finding that the state agency has a substantial need for the use of the information in carrying out its statutory responsibility.

(f) While in the possession of the official who issued the civil investigative demand, documentary material, answers to interrogatories, or transcripts of oral testimony shall be made available to the person, or to the representative of the person who produced the material, answered the interrogatories, or gave oral testimony. The official who issued the civil investigative demand may impose reasonable conditions upon the examination or use of the documentary material, answers to interrogatories, or transcripts of oral testimony.

(g) The official who issued the civil investigative demand and any attorney employed in the same office as the official who issued the civil investigative demand may use the documentary material, answers to interrogatories, or transcripts of oral testimony in connection with a proceeding before a grand jury, a court, or an

agency. Upon the completion of the proceeding, the attorney shall return to the official who issued the civil investigative demand any documentary material, answers to interrogatories, or transcripts of oral testimony that are not under the control of the grand jury, court, or agency.

(h) Upon written request of a person who produced documentary material in response to a civil investigative demand, the official who issued the civil investigative demand shall return any documentary material in the official's possession to the person who produced documentary material, if:

- (1) a proceeding before a grand jury, a court, or an agency involving the documentary material has been completed; or
- (2) a proceeding before a grand jury, a court, or an agency involving the documentary material has not been commenced within a reasonable time after the completion of the investigation.

The official who issued the civil investigative demand is not required to return documentary material that is in the custody of a grand jury, a court, or an agency.

*As added by P.L.222-2005, SEC.23. Amended by P.L.1-2006, SEC.99.*

#### **IC 5-11-5.5-16**

##### **Civil investigative demands; sanctions for failure to comply; protective orders**

Sec. 16. (a) A person who has failed to comply with a civil investigative demand is subject to sanctions under Trial Rule 37 to the same extent as a person who has failed to cooperate in discovery.

(b) A person who objects to a civil investigative demand issued under this chapter may seek a protective order in accordance with Trial Rule 26(C).

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-17**

##### **Civil investigative demands; confidentiality of responses**

Sec. 17. Documentary material, answers to written interrogatories, or oral testimony provided in response to a civil investigative demand issued under this chapter are confidential.

*As added by P.L.222-2005, SEC.23.*

#### **IC 5-11-5.5-18**

##### **Application of Indiana Rules of Trial Procedure**

Sec. 18. Proceedings under this chapter are governed by the Indiana Rules of Trial Procedure, unless the Indiana Rules of Trial Procedure are inconsistent with this chapter.

*As added by P.L.222-2005, SEC.23.*

## **IC 5-11-5.7**

### **Chapter 5.7. Medicaid False Claims and Whistleblower Protection**

#### **IC 5-11-5.7-1**

##### **Application; definitions**

Sec. 1. (a) This chapter applies only to claims, requests, demands, statements, records, acts, and omissions made or submitted in relation to the Medicaid program described in IC 12-15. Sections 3 through 18 of this chapter apply to claims, requests, demands, statements, records, acts, and omissions made or submitted in relation to the Medicaid program described in IC 12-15 in violation of IC 5-11-5.5-2 or IC 5-11-5.7-2.

(b) The following definitions apply throughout this chapter:

(1) "Claim" means a request or demand for money or property, whether under a contract or otherwise, and whether or not the state has title to the money or property, that:

(A) is presented to an officer, employee, or agent of the state; or

(B) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state's behalf or to advance a state program or interest, and if the state:

(i) provides or has provided any part of the money or property that is requested or demanded; or

(ii) will reimburse the contractor, grantee, or other recipient for any part of the money or property that is requested or demanded.

(2) "Document", "electronically stored information", or "tangible thing" includes:

(A) a writing, a drawing, a graph, a chart, a photograph, a sound recording, or an image;

(B) other data or a data compilation stored in any medium from which information can be obtained either directly or after translation by the responding party into a reasonably usable form;

(C) any tangible thing; and

(D) a product of discovery.

(3) "Investigation" means an inquiry conducted by an investigator to ascertain whether a person is or has been engaged in a violation of this chapter.

(4) "Knowing", "knowingly", or "known" means that a person, regarding information:

(A) has actual knowledge of the information;

(B) acts in deliberate ignorance of the truth or falsity of the information; or

(C) acts in reckless disregard of the truth or falsity of the information;

and requires no proof of specific intent to defraud.

(5) "Material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or

property.

(6) "Obligation" means an established duty, whether or not the duty is fixed, arising from:

- (A) an express or implied contractual relationship;
- (B) a grantor-grantee relationship;
- (C) a licensor-licensee relationship;
- (D) a fee-based or similar relationship;
- (E) a statute;
- (F) a rule or regulation; or
- (G) the retention of an overpayment.

(7) "Person" includes a natural person, a corporation, a firm, an association, an organization, a partnership, a limited liability company, a business, or a trust.

(8) "Product of discovery" means the original or duplicate of:

- (A) a deposition;
- (B) an interrogatory;
- (C) a document;
- (D) a thing;
- (E) a result of the inspection of land or other property; or
- (F) an examination or admission;

that is obtained by any method of discovery in a judicial or an administrative proceeding of an adversarial nature. The term includes a digest, an analysis, a selection, a compilation, a derivation, an index, or another method of accessing an item listed in this subdivision. The term also includes electronically stored information.

(9) "State" means Indiana or any agency of state government. The term does not include a political subdivision.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.2.*

#### **IC 5-11-5.7-2**

#### **Liability for presenting, making, or using false claims, false records or statements, conspiracy**

Sec. 2. (a) A person who:

- (1) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
- (2) knowingly makes, uses, or causes to be made or used, a false record or statement that is material to a false or fraudulent claim;
- (3) has possession, custody, or control of property or money used, or to be used, by the state, and knowingly delivers, or causes to be delivered, less than all of the money or property;
- (4) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and, with intent to defraud the state, authorizes issuance of a receipt without knowing that the information on the receipt is true;
- (5) knowingly buys or receives, as a pledge of an obligation or debt, public property from an employee who is not lawfully authorized to sell or pledge the property;

- (6) knowingly:
  - (A) makes, uses, or causes to be made or used, a false record or statement concerning an obligation to pay or transmit money or property to the state; or
  - (B) conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state;
- (7) conspires with another person to perform an act described in subdivisions (1) through (6); or
- (8) causes or induces another person to perform an act described in subdivisions (1) through (6);

is, except as provided in subsection (b), liable to the state for a civil penalty of at least five thousand five hundred dollars (\$5,500) and not more than eleven thousand dollars (\$11,000), as adjusted by the federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note, Public Law 101-410), and for up to three (3) times the amount of damages sustained by the state. In addition, a person who violates this section is liable to the state for the costs of a civil action brought to recover a penalty or damages.

(b) If the factfinder determines that the person who violated this section:

- (1) furnished state officials with all information known to the person about the violation not later than thirty (30) days after the date on which the person obtained the information;
- (2) fully cooperated with the investigation of the violation; and
- (3) did not have knowledge of the existence of an investigation, a criminal prosecution, a civil action, or an administrative action concerning the violation at the time the person provided information to state officials;

the person is liable for a penalty of not less than two (2) times the amount of damages that the state sustained because of the violation. A person who violates this section is also liable to the state for the costs of a civil action brought to recover a penalty or damages.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.3.*

### **IC 5-11-5.7-3**

#### **Concurrent jurisdiction to investigate; civil action; certification of findings; intervention; disqualification**

Sec. 3. (a) The:

- (1) attorney general; and
- (2) inspector general;

have concurrent jurisdiction to investigate a violation of section 2 of this chapter.

(b) If the attorney general discovers a violation of section 2 of this chapter, the attorney general may bring a civil action under this chapter against a person who may be liable for the violation.

(c) If the inspector general discovers a violation of section 2 of this chapter, the inspector general shall certify this finding to the attorney general. The attorney general may bring a civil action under

this chapter against a person who may be liable for the violation.

(d) If the attorney general or the inspector general is served by a person who has filed a civil action under section 4 of this chapter, the attorney general has the authority to intervene in that action as set forth in section 4 of this chapter.

(e) If the attorney general:

(1) is disqualified from investigating a possible violation of section 2 of this chapter;

(2) is disqualified from bringing a civil action concerning a possible violation of section 2 of this chapter;

(3) is disqualified from intervening in a civil action brought under section 4 of this chapter concerning a possible violation of section 2 of this chapter;

(4) elects not to bring a civil action concerning a possible violation of section 2 of this chapter; or

(5) elects not to intervene under section 4 of this chapter;

the attorney general shall certify the attorney general's disqualification or election to the inspector general.

(f) If the attorney general has certified the attorney general's disqualification or election not to bring a civil action or intervene in a case under subsection (e), the inspector general has authority to:

(1) bring a civil action concerning a possible violation of section 2 of this chapter; or

(2) intervene in a case under section 4 of this chapter.

(g) The attorney general shall certify to the inspector general the attorney general's disqualification or election under subsection (e) in a timely fashion, and in any event not later than:

(1) sixty (60) days after being served, if the attorney general has been served by a person who has filed a civil action under section 4 of this chapter; or

(2) one hundred eighty (180) days before the expiration of the statute of limitations, if the attorney general has not been served by a person who has filed a civil action under section 4 of this chapter.

(h) The state is not required to file a bond under this chapter.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.4.*

#### **IC 5-11-5.7-4**

#### **Civil action for violations on behalf of a person or the state; requirements; dismissal of claim; serving of complaint; extensions of time; intervention**

Sec. 4. (a) A person may bring a civil action for a violation of section 2 of this chapter on behalf of the person and on behalf of the state. The action:

(1) must be brought in the name of the state; and

(2) may be filed in any court with jurisdiction.

(b) An action brought under this section may be dismissed voluntarily by the person bringing the action only if:

(1) the person obtains the prior written consent of the attorney

general or the inspector general, if applicable; and

(2) the court issues an order:

(A) granting the motion; and

(B) explaining the court's reasons for granting the motion.

(c) A person who brings an action under this section shall serve:

(1) a copy of the complaint; and

(2) a written disclosure that describes all relevant material evidence and information the person possesses;

on both the attorney general and the inspector general. The person shall file the complaint under seal, and the complaint shall remain under seal for at least sixty (60) days. The complaint shall not be served on the defendant until the court orders the complaint served on the defendant following the intervention or the election not to intervene of the attorney general or the inspector general. The state may elect to intervene and proceed with the action not later than sixty (60) days after it receives both the complaint and the written disclosure.

(d) For good cause shown, the attorney general or the inspector general may move the court to extend the time during which the complaint must remain under seal. A motion for extension may be supported by an affidavit or other evidence. The affidavit or other evidence may be submitted in camera.

(e) Before the expiration of the time during which the complaint is sealed, the attorney general or the inspector general may:

(1) intervene in the case and proceed with the action, in which case the attorney general or the inspector general shall conduct the action; or

(2) elect not to proceed with the action, in which case the person who initially filed the complaint may proceed with the action.

(f) The defendant in an action filed under this section is not required to answer the complaint until twenty-one (21) days after the complaint has been unsealed and served on the defendant.

(g) After a person has filed a complaint under this section, no person other than the attorney general or the inspector general may:

(1) intervene; or

(2) bring another action based on the same facts.

(h) If the person who initially filed the complaint:

(1) planned and initiated the violation of section 2 of this chapter; or

(2) has been convicted of a crime related to the person's violation of section 2 of this chapter;

upon motion of the attorney general or the inspector general, the court shall dismiss the person as a plaintiff.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.5.*

#### **IC 5-11-5.7-5**

**Attorney general and inspector general responsibilities in intervention; dismissal of action; settlement of action; limitations**

Sec. 5. (a) If the attorney general or the inspector general intervenes in an action under section 4 of this chapter, the attorney general or the inspector general is responsible for prosecuting the action and is not bound by an act of the person who initially filed the complaint. The attorney general or the inspector general may do the following:

- (1) File a complaint.
- (2) Amend the complaint of a person who has brought an action under section 4 of this chapter, to:
  - (A) clarify or add detail to the claims in which the state is intervening; or
  - (B) add additional claims to which the state contends the state is entitled to relief.
- (3) Move for a change of venue to Marion County if the attorney general or the inspector general files a motion for change of venue not later than ten (10) days after the attorney general or the inspector general intervenes.

For statute of limitation purposes, a pleading filed by the attorney general or the inspector general relates back to the filing date of the complaint of the person who originally brought the action, to the extent that the claim of the state arises out of the conduct, transactions, or occurrences set forth, or attempted to be set forth, in the original filed complaint. Except as provided in this section, the person who initially filed the complaint may continue as a party to the action.

(b) With the approval of the court, the attorney general or the inspector general may dismiss the action after:

- (1) notifying the person who initially filed the complaint; and
- (2) the court has conducted a hearing at which the person who initially filed the complaint was provided the opportunity to be heard on the motion.

The court may consider a request by the attorney general or the inspector general to dismiss the action but is not bound by the request. Additionally, the court may permit the attorney general or inspector general to withdraw his or her appearance in the case and may permit the person who initially filed the complaint to continue to prosecute the action in the name of the state.

(c) The attorney general or the inspector general may settle the action if a court determines, after a hearing, that the proposed settlement is fair, adequate, and reasonable in light of the circumstances. Upon a showing of good cause, the court may:

- (1) conduct the settlement hearing in camera; or
- (2) lift all or part of the seal to facilitate the investigative process or settlement.

The court may consider an objection to the settlement brought by the person who initially filed the complaint, but is not bound by this objection.

(d) Upon a showing by the attorney general, the inspector general, or the defendant that unrestricted participation by the person who initially filed the complaint:

- (1) will interfere with or unduly delay the prosecution of the case by the attorney general or the inspector general;
- (2) will involve the presentation of repetitious or irrelevant evidence, or evidence introduced for purposes of harassment; or
- (3) will cause the defendant to suffer undue burden or unnecessary expense;

the court may impose reasonable limitations on the person's participation, including a limit on the number of witnesses that the person may call, a limit to the length of testimony that the person's witness may present, a limit to the person's cross-examination of a witness, or otherwise limit the participation by the person in the litigation.

(e) If the attorney general or the inspector general elects not to intervene in the action, the person who initially filed the complaint has the right to prosecute the action. Upon request, the attorney general or the inspector general shall be served with copies of all documents filed in the action and may obtain a copy of depositions and other transcripts at the state's expense.

(f) If the attorney general and the inspector general have elected not to intervene in an action in accordance with section 4 of this chapter, upon a showing of good cause, a court may permit either the attorney general or the inspector general to intervene at a later time. The attorney general may move to intervene at any time. If the attorney general has not moved to intervene, the inspector general may move to intervene by providing written notice to the attorney general of the inspector general's intent to intervene. If the attorney general does not move to intervene earlier than fifteen (15) days after receipt of the notice of intent to intervene, the inspector general may move to intervene. If the attorney general or the inspector general intervenes under this subsection, the attorney general or the inspector general is responsible for prosecuting the action as if the attorney general or the inspector general had intervened in accordance with section 4 of this chapter.

(g) If the attorney general or inspector general shows that a specific discovery action by the person who initially filed the complaint will interfere with the investigation or prosecution of a civil or criminal matter arising out of the same facts, the court may, following a hearing in camera, stay discovery for not more than sixty (60) days. After the court has granted a sixty (60) day stay, the court may extend the stay, following a hearing in camera, if it determines that the state has pursued the civil or criminal investigation with reasonable diligence and that a specific discovery action by the person who initially filed the complaint will interfere with the state's investigation or prosecution of the civil or criminal matter.

(h) A court may dismiss an action brought under this chapter to permit the attorney general or the inspector general to pursue its claim through an alternative proceeding, including an administrative proceeding or a proceeding brought in another jurisdiction. The person who initially filed the complaint has the same rights in the alternative proceedings as the person would have had in the original

proceedings. A finding of fact or conclusion of law made in the alternative proceeding is binding on all parties to an action under this section once the determination made in the alternative proceeding is final under the rules, regulations, statutes, or law governing the alternative proceeding, or if the time for seeking an appeal or review of the determination made in the alternative proceeding has elapsed. *As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.6.*

#### **IC 5-11-5.7-6**

#### **Entitlement for person who initially filed complaint; attorney's fees and costs; state not liable for expenses and costs**

Sec. 6. (a) The person who initially filed the complaint is entitled to the following amounts if the state prevails in the action:

(1) Except as provided in subdivision (2), if the attorney general or the inspector general intervened in the action, the person is entitled to receive at least fifteen percent (15%) and not more than twenty-five percent (25%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(2) If the attorney general or the inspector general intervened in the action and the court finds that the evidence used to prosecute the action consisted primarily of specific information, other than information provided by the person bringing the action, contained in:

(A) a transcript of a criminal, a civil, or an administrative hearing;

(B) a legislative, an administrative, or another public state report, hearing, audit, or investigation; or

(C) a news media report;

the person is entitled to receive not more than ten percent (10%) of the proceeds of the action or settlement, taking into account the significance of the information and the role of the person bringing the action in advancing the case to litigation, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(3) If the attorney general or the inspector general did not intervene in the action, the person is entitled to receive at least twenty-five percent (25%) and not more than thirty percent (30%) of the proceeds of the action or settlement, plus reasonable attorney's fees and an amount to cover the expenses and costs of bringing the action.

(4) If the person who initially filed the complaint:

(A) planned and initiated the violation of section 2 of this chapter; or

(B) has been convicted of a crime related to the person's violation of section 2 of this chapter;

the person is not entitled to an amount under this section.

After conducting a hearing at which the attorney general or the inspector general and the person who initially filed the complaint

may be heard, the court shall determine the specific amount to be awarded under this section to the person who initially filed the complaint. The award of reasonable attorney's fees plus an amount to cover the expenses and costs of bringing the action is an additional cost assessed against the defendant and may not be paid from the proceeds of the civil action.

(b) If:

(1) the attorney general or the inspector general did not intervene in the action; and

(2) the defendant prevails;

the court may award the defendant reasonable attorney's fees plus an amount to cover the expenses and costs of defending the action, if the court finds that the action is frivolous, vexatious, or brought primarily for purposes of harassment.

(c) The state is not liable for the expenses, costs, or attorney's fees of a party to an action brought under this chapter.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.7.*

#### **IC 5-11-5.7-7**

#### **No court jurisdiction for actions brought by incarcerated offenders, actions brought against certain officeholders, actions subject to civil suit or criminal prosecution, or actions based on information contained in specified documents**

Sec. 7. (a) This section does not apply to an action brought by:

(1) the attorney general;

(2) the inspector general;

(3) a prosecuting attorney; or

(4) a state employee in the employee's official capacity.

(b) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is brought by an incarcerated offender, including an offender incarcerated in another jurisdiction.

(c) A court does not have jurisdiction over an action brought under section 4 of this chapter against the state, a state officer, a judge (as defined in IC 33-23-11-7), a justice, a member of the general assembly, a state employee, or an employee of a political subdivision, if the action is based on information known to the state at the time the action was brought.

(d) A court does not have jurisdiction over an action brought under section 4 of this chapter if the action is based upon an act that is the subject of a civil suit, a criminal prosecution, or an administrative proceeding in which the state is a party.

(e) A court does not have jurisdiction over an action or claim brought under section 4 of this chapter if the action or claim is based upon information contained in:

(1) a transcript of a criminal, a civil, or an administrative hearing in which the state or the state's agent is a party;

(2) a legislative, an administrative, or another public state report, hearing, audit, or investigation; or

(3) a news media report;  
unless the person bringing the action either, before a public disclosure under this section voluntarily discloses to the state the information on which the allegations or transactions in a claim are based, or has knowledge that is independent of and materially adds to the publicly disclosed allegations or transactions, and the person bringing the action has voluntarily provided this information to the state before an action is filed under section 4 of this chapter.

(f) In determining whether a prior public disclosure bars a court from exercising jurisdiction over an action brought under section 4 of this chapter, the court shall consider, but is not bound by, any objection brought by the attorney general or the inspector general.  
*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.8.*

### **IC 5-11-5.7-8**

#### **Entitled relief for employees, contractors, or agents; three year limitation**

Sec. 8. (a) An employee, contractor, or agent who has been discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent, or associated others to:

- (1) object to or otherwise stop an act or omission described in section 2 of this chapter;
- (2) initiate, testify, assist, or participate in an investigation, an action, or a hearing; or
- (3) perform any other lawful act in furtherance of other efforts to stop one (1) or more violations under this chapter;

is entitled to all relief necessary to make the employee, contractor, or agent whole.

(b) Relief under this section must include:

- (1) reinstatement with the same seniority status the employee, contractor, or agent would have had but for the act described in subsection (a);
- (2) two (2) times the amount of back pay;
- (3) interest on the back pay; and
- (4) compensation for any special damages sustained as a result of the act described in subsection (a), including costs and expenses of litigation and reasonable attorney's fees.

(c) An employee, contractor, or agent may bring an action for the relief provided in this section in any court with jurisdiction.

(d) A civil action under this section may not be brought more than three (3) years after the date the retaliation occurred.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.9.*

### **IC 5-11-5.7-9**

#### **Subpoena; barring of civil action timing; establishment of elements of offense and damages by preponderance of the evidence; estoppel**

**if conviction of crime involving fraud or false statements**

Sec. 9. (a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under this chapter may be served at any place in Indiana.

(b) A civil action under section 4 of this chapter is barred unless it is commenced:

- (1) not later than six (6) years after the date on which the violation is committed; or
- (2) not later than three (3) years after the date when facts material to the cause of action are known or reasonably should have been known by a state officer or employee who is responsible for addressing the false claim, but in no event later than ten (10) years after the date on which the violation is committed, whichever occurs later.

(c) In a civil action brought under this chapter, the state is required to establish:

- (1) the essential elements of the offense; and
- (2) damages;

by a preponderance of the evidence.

(d) If a defendant has been convicted (including a plea of guilty or nolo contendere) of a crime involving fraud or a false statement, the defendant is estopped from denying the elements of the offense in a civil action brought under section 4 of this chapter that involves the same transaction as the criminal prosecution.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.10.*

**IC 5-11-5.7-10**

**Issuance of civil investigative demand concerning documents and information; requirements**

Sec. 10. (a) Whenever the attorney general, the inspector general, or the designee of the attorney general or the inspector general has reason to believe that a person may be in possession, custody, or control of documentary material, electronically stored information, a tangible thing, or information relevant to an investigation under this chapter involving a false claim, the attorney general, the inspector general, or the designee of the attorney general or inspector general may, before commencing a civil proceeding under this chapter, issue and serve a civil investigative demand requiring the person to do one (1) or more of the following:

- (1) Produce the documentary material, electronically stored information, or tangible thing for inspection and copying.
- (2) Answer an interrogatory in writing concerning the documentary material, electronically stored information, tangible thing, or information.
- (3) Give oral testimony concerning the documentary material, electronically stored information, tangible thing, or information.
- (4) Furnish any combination of material, other evidence, answers, or testimony.

(b) If a civil investigative demand is a specific demand for a

product of discovery, the official issuing the civil investigative demand shall:

- (1) serve a copy of the civil investigative demand on the person from whom the discovery was obtained; and
- (2) notify the person to whom the civil investigative demand is issued of the date of service.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.11.*

#### **IC 5-11-5.7-11**

#### **Civil investigative demand include description of conduct constituting violation involving a false claim; requirements; return; date for oral testimony requirements**

Sec. 11. (a) A civil investigative demand issued under this chapter must describe the conduct constituting a violation involving a false claim that is under investigation and the statute or rule that has been violated.

(b) If a civil investigative demand is for the production of documentary material, the civil investigative demand must:

- (1) describe each class of documentary material to be produced with sufficient specificity to permit the material to be fairly identified;
- (2) prescribe a return date for each class of documentary material that provides a reasonable period of time to assemble and make the material available for inspection and copying; and
- (3) identify the official to whom the material must be made available.

(c) If a civil investigative demand is for answers to written interrogatories, the civil investigative demand must:

- (1) set forth with specificity the written interrogatories to be answered;
- (2) prescribe the date by which answers to the written interrogatories must be submitted; and
- (3) identify the official to whom the answers must be submitted.

(d) If a civil investigative demand requires oral testimony, the civil investigative demand must:

- (1) prescribe a date, time, and place at which oral testimony will be given;
- (2) identify the official who will conduct the examination and the custodian to whom the transcript of the examination will be submitted;
- (3) specifically state that attendance and testimony are necessary to the conduct of the investigation;
- (4) notify the person receiving the demand that the person has the right to be accompanied by an attorney and any other representative; and
- (5) describe the general purpose for which the demand is being issued and the general nature of the testimony, including the primary areas of inquiry.

(e) A civil investigative demand that is a specific demand for a

product of discovery may not be returned until at least twenty-one (21) days after a copy of the civil investigative demand has been served on the person from whom the discovery was obtained.

(f) The date prescribed for the giving of oral testimony under a civil investigative demand issued under this chapter must be a date that is not less than seven (7) days after the date on which the demand is received, unless the official issuing the demand determines that exceptional circumstances are present that require an earlier date.

(g) The official who issues a civil investigative demand may not issue more than one (1) civil investigative demand for oral testimony by the same person, unless:

- (1) the person requests otherwise; or
- (2) the official who issues a civil investigative demand, after conducting an investigation, notifies the person in writing that an additional civil investigative demand for oral testimony is necessary.

*As added by P.L.197-2013, SEC.1.*

#### **IC 5-11-5.7-12**

**Demand limitations if disclosure is protected; civil investigative demand supercedes contrary orders, rules, provisions that prevent or restrict disclosure; does not constitute waiver of a right or privilege**

Sec. 12. (a) A civil investigative demand issued under this chapter may not require the production of any documentary material, the submission of any answers to written interrogatories, or the giving of any oral testimony if the material, answers, or testimony would be protected from disclosure under the standards applicable:

- (1) to a subpoena or subpoena duces tecum issued by a court to aid in a grand jury investigation; or
- (2) to a discovery request under the rules of trial procedure;

to the extent that the application of these standards to a civil investigative demand is consistent with the purposes of this chapter.

(b) A civil investigative demand that is a specific demand for a product of discovery supersedes any contrary order, rule, or statutory provision, other than this section, that prevents or restricts disclosure of the product of discovery. Disclosure of a product of discovery under a specific demand does not constitute a waiver of a right or privilege that the person making the disclosure may be otherwise entitled to invoke to object to discovery of trial preparation materials.

*As added by P.L.197-2013, SEC.1.*

#### **IC 5-11-5.7-13**

**Service of investigative demand**

Sec. 13. (a) A civil investigative demand issued under this chapter may be served by an investigator or by any other person authorized to serve process.

(b) A civil investigative demand shall be served in accordance with the rules of trial procedure. A court having jurisdiction over a

person not located in Indiana has the same authority to enforce compliance with this chapter as the court has over a person located in Indiana.

*As added by P.L.197-2013, SEC.1.*

#### **IC 5-11-5.7-14**

##### **Production of documentary material, interrogatories, and examinations in accordance with rules of civil procedure**

Sec. 14. (a) The production of documentary material in response to a civil investigative demand served under this chapter shall be made in accordance with the rules of civil procedure concerning the production of documents, electronically stored information, and tangible things.

(b) Each interrogatory in a civil investigative demand served under this chapter shall be answered in accordance with the rules of civil procedure concerning interrogatories.

(c) The examination of a person under a civil investigative demand for oral testimony served under this chapter shall be conducted in accordance with the rules of civil procedure concerning oral depositions.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.12.*

#### **IC 5-11-5.7-15**

##### **Issuer of civil investigative demand as custodian; transmittal and possession of documents; copies; restricted availability of documents; return of materials**

Sec. 15. (a) The official who issued the civil investigative demand is the custodian of the documentary material, answers to interrogatories, and transcripts of oral testimony received under this chapter.

(b) An investigator who receives documentary material, answers to interrogatories, or transcripts of oral testimony under this section shall transmit them to the official who issued the civil investigative demand. The official shall take physical possession of the material, answers, or transcripts and is responsible for the use made of them and for the return of documentary material.

(c) The official who issued the civil investigative demand may make copies of documentary material, answers to interrogatories, or transcripts of oral testimony as required for official use by the attorney general, the inspector general, or the state police. The material, answers, or transcripts may be used in connection with the taking of oral testimony under this chapter.

(d) Except as provided in subsection (e), documentary material, answers to interrogatories, or transcripts of oral testimony, while in the possession of the official who issued the civil investigative demand, may not be made available for examination to any person other than:

(1) the attorney general or designated personnel of the attorney general's office;

(2) the inspector general or designated personnel of the inspector general's office; or

(3) an officer of the state police who has been authorized by the official who issued the civil investigative demand.

(e) The restricted availability of documentary material, answers to interrogatories, or transcripts of oral testimony does not apply:

(1) if the person who provided:

(A) the documentary material, answers to interrogatories, or oral testimony; or

(B) a product of discovery that includes documentary material, answers to interrogatories, or oral testimony;

consents to disclosure;

(2) to the general assembly or a committee or subcommittee of the general assembly; or

(3) to a state agency that requires the information to carry out its statutory responsibility.

Documentary material, answers to interrogatories, or transcripts of oral testimony requested by a state agency may be disclosed only under a court order finding that the state agency has a substantial need for the use of the information in carrying out its statutory responsibility.

(f) While in the possession of the official who issued the civil investigative demand, documentary material, answers to interrogatories, or transcripts of oral testimony shall be made available to the person, or to the representative of the person who produced the material, answered the interrogatories, or gave oral testimony. The official who issued the civil investigative demand may impose reasonable conditions upon the examination or use of the documentary material, answers to interrogatories, or transcripts of oral testimony.

(g) The official who issued the civil investigative demand and any attorney employed in the same office as the official who issued the civil investigative demand may use the documentary material, answers to interrogatories, or transcripts of oral testimony in connection with a proceeding before a grand jury, a court, or an agency. Upon the completion of the proceeding, the attorney shall return to the official who issued the civil investigative demand any documentary material, answers to interrogatories, or transcripts of oral testimony that are not under the control of the grand jury, court, or agency.

(h) Upon written request of a person who produced documentary material in response to a civil investigative demand, the official who issued the civil investigative demand shall return any documentary material in the official's possession to the person who produced documentary material, if:

(1) a proceeding before a grand jury, a court, or an agency involving the documentary material has been completed; or

(2) a proceeding before a grand jury, a court, or an agency involving the documentary material has not been commenced within a reasonable time after the completion of the

investigation.

The official who issued the civil investigative demand is not required to return documentary material that is in the custody of a grand jury, a court, or an agency.

*As added by P.L.197-2013, SEC.1.*

#### **IC 5-11-5.7-16**

##### **Sanctions for failure to comply; protective order**

Sec. 16. (a) A person who has failed to comply with a civil investigative demand is subject to sanctions under the rules of civil procedure to the same extent as a person who has failed to cooperate in discovery.

(b) A person who objects to a civil investigative demand issued under this chapter may seek a protective order in accordance with the rules of civil procedure.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.13.*

#### **IC 5-11-5.7-17**

##### **Confidentiality of material and information**

Sec. 17. Documentary material, answers to written interrogatories, or oral testimony provided in response to a civil investigative demand issued under this chapter is confidential.

*As added by P.L.197-2013, SEC.1.*

#### **IC 5-11-5.7-18**

##### **Proceedings governed by Indiana Rules of Trial Procedure**

Sec. 18. Proceedings under this chapter are governed by the Indiana Rules of Trial Procedure if the proceedings are held in state court, and by the Federal Rules of Civil Procedure if the proceedings are held in federal court.

*As added by P.L.197-2013, SEC.1. Amended by P.L.109-2014, SEC.14.*

## **IC 5-11-6**

### **Chapter 6. Additional Powers of State Examiner and Attorney General**

#### **IC 5-11-6-1**

##### **Taxpayer petition; examination of public contracts; prosecutions resulting therefrom**

Sec. 1. (a) The state examiner, personally or through the deputy examiners, field examiners, or private examiners, upon the petition of twenty-five (25) interested taxpayers showing that effective local relief has not and cannot be obtained after due effort, shall make the inquiries, tests, examinations, and investigations that may be necessary to determine whether:

- (1) any public contract has been regularly and lawfully executed and performed; or
- (2) any public work, building, or structure has been or is being performed, built, or constructed in accordance with the terms and provisions of the contract, and in compliance with the plans and specifications, if any.

Upon a written petition of twenty-five (25) taxpayers, the state examiner may also require all plans, specifications, and estimates to be submitted to the state examiner for corrections and approval before a contract is awarded.

(b) The state examiner, deputy examiner, and any field examiner, when engaged in making an inquiry, test, examination, or investigation under subsection (a), is entitled to examine and inspect any public records, documents, data, contracts, plans, and specifications contained or found in any public office or other place pertaining or relating to the public contract or public work, building, or structure. In addition, subpoenas may be issued to witnesses to appear before the examiner in person or to produce books and papers for inspection and examination. The state examiner, deputy, field, and private examiner may administer oaths and examine witnesses under oath either orally or by interrogatories on all matters under examination and investigation. Under order of the state examiner, the examination may be transcribed, with the reasonable expense paid by the municipality in the same manner as the compensation of the field examiner is paid.

(c) The state examiner, the deputy examiner, and a field examiner may enforce attendance and answers to questions and interrogatories, as provided by law, with respect to examinations and investigations made by the state examiner, deputy examiner, field examiner, or private examiner of public offices.

(d) The state examiner, deputy examiner, any field examiner, and any private examiner, when making an examination or investigation under subsection (a), shall examine, inspect, and test the public works, buildings, or structures in the manner that the examiner sees fit to determine whether it is being performed, built, or constructed according to the contract and plans and specifications.

(e) The state examiner shall file a report covering any

examination or investigation that discloses:

- (1) fraud, collusion, misconduct, or negligence in the letting or the execution of any public contract or in the performance of any of the terms and conditions of any public contract; or
- (2) any failure to comply with the terms or conditions of any public contract in the construction of any public work, building, or structure or to perform, build, or construct it according to the plans and specifications, if any, provided in the contract;

that causes loss, injury, waste, or damage to the state, the municipality, taxing or assessment district, other public entity, or to its citizens, if it is enforceable by assessment or taxation.

(f) The report must meet the following requirements:

- (1) The report must be made, signed, and verified in quadruplicate by the examiner making the examination.
- (2) The report shall be filed promptly with the state examiner.

After inspection of the report, the state examiner shall file a copy of the report promptly with the attorney general and the inspector general.

(g) The attorney general shall diligently institute and prosecute civil proceedings against any or all officers, individuals, and persons in the form and manner that the attorney general determines will secure a proper recovery to the state, municipality, taxing or assessment district, or other public entity injured, defrauded, or damaged by the matters in the report. These prosecutions may be made by the attorney general and the recovery may be had, either upon public official bonds, contractors' bonds, surety or other bonds, or upon individual liability, either upon contract or in tort, as the attorney general determines is wise. No action or recovery in any form or manner, or against any party or parties, precludes further or additional action or recovery in any other form or manner or against another party, either concurrently with or later found necessary, to secure complete recovery and restitution with respect to all matters exhibited, set out, or described in the report. The suits may be brought in the name of the state on the relation of the attorney general for the benefit of the state, or the municipality, taxing or assessment district, or other public entity that may be proper. The actions brought against any defendants may be joined, as to parties, form, and causes of action, in the manner that the attorney general decides.

(h) Any report described in this section or a copy duly certified by the state examiner shall be taken and received in any and all courts of this state as prima facie evidence of the facts stated and contained in the reports.

(i) If an examination, investigation, or test is made without a petition being first filed and the examination, investigation, or test shows that the terms of the contract are being complied with, then the expense of the examination, investigation, or test shall be paid by the state upon vouchers approved by the state examiner from funds available for contractual service of the state board of accounts. If such a report shows misfeasance, malfeasance, or nonfeasance in

public office or shows that the terms of the plans and specifications under which a contract has been awarded are not being complied with, it is unlawful to make the report public until the report has been certified to the attorney general.

(j) If, during an examination under this article, a deputy examiner, field examiner, or private examiner acting as an agent of the state examiner determines that all of the following conditions are satisfied, the examiner shall report the determination to the state examiner:

(1) A substantial amount of public funds has been misappropriated or diverted.

(2) The deputy examiner, field examiner, or private examiner acting as an agent of the state examiner has a reasonable belief that the malfeasance or misfeasance that resulted in the misappropriation or diversion of public funds was committed by the officer or an employee of the office.

(k) After receiving a preliminary report under subsection (j), the state examiner may provide a copy of the report to the attorney general. The attorney general may institute and prosecute civil proceedings against the delinquent officer or employee, or upon the officer's or employee's official bond, or both, and against any other proper person that will secure to the state or to the proper municipality the recovery of any funds misappropriated, diverted, or unaccounted for.

(l) In an action under subsection (k), the attorney general may attach the defendant's property under IC 34-25-2.

(m) A preliminary report under subsection (j) is confidential until the final report under subsection (e) is issued, unless the attorney general institutes an action under subsection (k) on the basis of the preliminary report.

*(Formerly: Acts 1923, c.120, s.1.) As amended by P.L.3-1986, SEC.20; P.L.176-2009, SEC.5; P.L.126-2012, SEC.18; P.L.136-2012, SEC.4.*

### **IC 5-11-6-2**

#### **Reports of state examiner**

Sec. 2. All the provisions of section 1 of this chapter relating to the powers and duties of the attorney general shall apply to all reports of the state examiner, as provided in section 1 of this chapter, whether such inquiries, tests, examination, or investigation and the reports made thereon shall have been made before or after March 7, 1923.

*(Formerly: Acts 1923, c.120, s.2.) As amended by P.L.25-1986, SEC.40.*

### **IC 5-11-6-3**

#### **Public wrongdoing; institution of civil proceeding**

Sec. 3. If any examination or investigation made by the state examiner personally or through a deputy examiner, field examiner, or private examiner under this chapter or under any other statute discloses:

- (1) malfeasance, misfeasance, or nonfeasance in office or of any officer or employee;
- (2) that any public money has been:
  - (A) unlawfully expended, either by having been expended for a purpose not authorized by law in an amount exceeding that authorized by law, or by having been paid to a person not lawfully entitled to receive it; or
  - (B) obtained by fraud or in any unlawful manner; or
- (3) that any money has been wrongfully withheld from the public treasury;

a duly verified copy of the report shall be submitted by the state examiner to the attorney general, who shall institute and prosecute civil proceedings as provided in section 1 of this chapter, and to the inspector general.

*(Formerly: Acts 1923, c.120, s.3.) As amended by P.L.3-1986, SEC.21; P.L.126-2012, SEC.19; P.L.136-2012, SEC.5.*

#### **IC 5-11-6-4**

##### **Grand jury; certified copy of reports disclosing crimes or offenses; expenses of field examination**

Sec. 4. (a) If a report is filed with the attorney general that discloses any offense, the state examiner shall present a certified copy of the report and competent testimony supporting the charges made in the report to the grand jury of the county in which the offense is alleged to have been committed at its first convenient session. The attorney general shall direct, supervise, and assist in the prosecution of the offense before the grand jury and in the courts.

(b) The per diem and actual expenses of all field or private examiners required by the state examiner, the attorney general, or any prosecuting attorney to attend sessions of grand juries or trials in connection with the prosecution shall be paid by the state upon vouchers approved by the state examiner from funds available for office and traveling expenses for the state board of accounts.

*(Formerly: Acts 1923, c.120, s.4.) As amended by Acts 1978, P.L.2, SEC.512; P.L.3-1986, SEC.22.*

#### **IC 5-11-6-5**

##### **Effect of chapter; municipality defined**

Sec. 5. (a) The provisions of this chapter shall not be construed as repealing any laws in force on March 7, 1923, but shall be construed only as conferring additional duties and powers upon the state examiner, deputy examiners, field examiners, and the attorney general of the state and providing additional remedies as to the matters set forth in those laws, and all the remedies provided in this chapter shall be additional and concurrent and not exclusive.

(b) The term "municipality", as used in this chapter, shall be construed to extend to and include any county, township, city, town, school town, school township, school city, or board of park commissioners in this state.

*(Formerly: Acts 1923, c.120, s.5.) As amended by P.L.25-1986,*

*SEC.41.*

**IC 5-11-7**

**Chapter 7. Plaintiff in Action for Recovery of Public Funds**

**IC 5-11-7-1**

**State as nominal party in action**

Sec. 1. When, under the provisions of this article, any report or reports are certified to the attorney general by the state examiner of the state board of accounts charging any public official, any former public official, and/or any other person named in such report with having illegally received, and/or having illegally retained, and/or failed to account for and pay over any money so received, and/or having illegally expended public moneys or any moneys placed in custody of such public official or former public official by authority of law, and the attorney general brings an action for the recovery of such moneys, such action shall be brought in the name of the state of Indiana upon the relation of the attorney general as plaintiff.

*(Formerly: Acts 1935, c.101, s.1.) As amended by P.L.25-1986, SEC.42.*

**IC 5-11-8**

**Repealed**

*(Repealed by P.L.3-1986, SEC.26.)*

## **IC 5-11-9**

### **Chapter 9. Certification of Accounts and Vouchers; Forms**

#### **IC 5-11-9-1**

##### **State employees; accounts for personal services**

Sec. 1. On and after July 1, 1947, all accounts or vouchers of any office, department, division, board, body, bureau, officer, or employee of the state for personal services shall be made in such form as may be prescribed by the state board of accounts.

*(Formerly: Acts 1947, c.14, s.1.)*

#### **IC 5-11-9-2**

##### **Political subdivision employees; accounts for personal services**

Sec. 2. On and after January 1, 1948, all accounts or vouchers of any political subdivision of the state for personal services of officers and employees shall be made in such form as may be prescribed by the state board of accounts.

*(Formerly: Acts 1947, c.14, s.2.)*

#### **IC 5-11-9-3**

##### **Certification of vouchers and accounts**

Sec. 3. Certification of said vouchers and accounts shall be made by the elected officer, head of the department, division, board, body, bureau, or political subdivision or by such authority or authorities in the office, department, division, board, body, bureau, or political subdivision as shall be designated by the elected officer, head of the department, division, board, body, bureau or political subdivision by rule or written direction filed with the officer authorized by law to audit such accounts and vouchers.

*(Formerly: Acts 1947, c.14, s.3.)*

#### **IC 5-11-9-4**

##### **Forms; records**

Sec. 4. (a) The state board of accounts is hereby authorized to prescribe the forms of accounts and vouchers provided for by sections 1 and 2 of this chapter.

(b) The state board of accounts shall require that records be maintained showing which hours were worked each day by officers and employees:

- (1) covered by section 1 or 2 of this chapter; and
- (2) employed by more than one (1) public agency or in more than one (1) position by the same public agency described in section 1 or 2 of this chapter.

*(Formerly: Acts 1947, c.14, s.4.) As amended by P.L.52-1983, SEC.3; P.L.44-1986, SEC.1.*

## **IC 5-11-10**

### **Chapter 10. Certification of Claims; Forms**

#### **IC 5-11-10-1**

##### **Exempt entities; disbursements for claims; certification; liability**

Sec. 1. (a) This section applies to the state and its political subdivisions. However, this section does not apply to the following:

- (1) A state educational institution, including Ivy Tech Community College of Indiana.
- (2) A municipality (as defined in IC 36-1-2-11).
- (3) A county.
- (4) An airport authority operating in a consolidated city.
- (5) A capital improvements board of managers operating in a consolidated city.
- (6) A board of directors of a public transportation corporation operating in a consolidated city.
- (7) A municipal corporation organized under IC 16-22-8-6.
- (8) A public library.
- (9) A library services authority.
- (10) A hospital organized under IC 16-22 or a hospital organized under IC 16-23.
- (11) A school corporation (as defined in IC 36-1-2-17).
- (12) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).
- (13) A municipally owned utility (as defined in IC 8-1-2-1).
- (14) A board of an airport authority under IC 8-22-3.
- (15) A conservancy district.
- (16) A board of aviation commissioners under IC 8-22-2.
- (17) A public transportation corporation under IC 36-9-4.
- (18) A commuter transportation district under IC 8-5-15.
- (19) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).
- (20) A county building authority under IC 36-9-13.
- (21) A soil and water conservation district established under IC 14-32.
- (22) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.
- (23) The commuter rail service board established under IC 8-24-5.
- (24) The regional demand and scheduled bus service board established under IC 8-24-6.

(b) No warrant or check shall be drawn by a disbursing officer in payment of any claim unless the same has been fully itemized and its correctness properly certified to by the claimant or some authorized person in the claimant's behalf, and filed and allowed as provided by law.

(c) The certificate provided for in subsection (b) is not required for:

- (1) claims rendered by a public utility for electric, gas, steam, water, or telephone services, the charges for which are regulated

by a governmental body;

(2) a warrant issued by the auditor of state under IC 4-13-2-7(b);

(3) a check issued by a special disbursing officer under IC 4-13-2-20(g); or

(4) a payment of fees under IC 36-7-11.2-49(b) or IC 36-7-11.3-43(b).

(d) The disbursing officer shall issue checks or warrants for all claims which meet all of the requirements of this section. The disbursing officer does not incur personal liability for disbursements:

(1) processed in accordance with this section; and

(2) for which funds are appropriated and available.

(e) The certificate provided for in subsection (b) must be in the following form:

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

*(Formerly: Acts 1953, c.155, s.1; Acts 1957, c.37, s.1; Acts 1971, P.L.49, SEC.1.) As amended by Acts 1977, P.L.54, SEC.1; Acts 1979, P.L.37, SEC.1; Acts 1981, P.L.52, SEC.1; P.L.53-1983, SEC.1; P.L.54-1983, SEC.1; P.L.48-1988, SEC.1; P.L.25-1988, SEC.3; P.L.29-1990, SEC.2; P.L.2-1993, SEC.45; P.L.5-1995, SEC.5; P.L.1-1995, SEC.42; P.L.71-1995, SEC.1; P.L.69-1995, SEC.2; P.L.40-1996, SEC.1; P.L.39-1996, SEC.6; P.L.45-1997, SEC.1; P.L.99-2003, SEC.1; P.L.127-2005, SEC.5; P.L.169-2006, SEC.3; P.L.2-2007, SEC.98; P.L.182-2009(ss), SEC.76.*

### **IC 5-11-10-1.6**

#### **Requirements for issuance of warrant or check by fiscal officer**

Sec. 1.6. (a) As used in this section, "governmental entity" refers to any of the following:

(1) A municipality (as defined in IC 36-1-2-11).

(2) A school corporation (as defined in IC 36-1-2-17), including a school extracurricular account.

(3) A county.

(4) A regional water or sewer district organized under IC 13-26 or under IC 13-3-2 (before its repeal).

(5) A municipally owned utility that is subject to IC 8-1.5-3 or IC 8-1.5-4.

(6) A board of an airport authority under IC 8-22-3.

(7) A board of aviation commissioners under IC 8-22-2.

(8) A conservancy district.

(9) A public transportation corporation under IC 36-9-4.

(10) A commuter transportation district under IC 8-5-15.

(11) The state.

(12) A solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal).

(13) A levee authority established under IC 14-27-6.

(14) A county building authority under IC 36-9-13.

(15) A soil and water conservation district established under

IC 14-32.

(16) The northwestern Indiana regional planning commission established by IC 36-7-7.6-3.

(17) The commuter rail service board established under IC 8-24-5.

(18) The regional demand and scheduled bus service board established under IC 8-24-6.

(b) As used in this section, "claim" means a bill or an invoice submitted to a governmental entity for goods or services.

(c) The fiscal officer of a governmental entity may not draw a warrant or check for payment of a claim unless:

- (1) there is a fully itemized invoice or bill for the claim;
- (2) the invoice or bill is approved by the officer or person receiving the goods and services;
- (3) the invoice or bill is filed with the governmental entity's fiscal officer;
- (4) the fiscal officer audits and certifies before payment that the invoice or bill is true and correct; and
- (5) payment of the claim is allowed by the governmental entity's legislative body or the board or official having jurisdiction over allowance of payment of the claim.

This subsection does not prohibit a school corporation, with prior approval of the board having jurisdiction over allowance of payment of the claim, from making payment in advance of receipt of services as allowed by guidelines developed under IC 20-20-13-10. This subsection does not prohibit a municipality from making meal expense advances to a municipal employee who will be traveling on official municipal business if the municipal fiscal body has adopted an ordinance allowing the advance payment, specifying the maximum amount that may be paid in advance, specifying the required invoices and other documentation that must be submitted by the municipal employee, and providing for reimbursement from the wages of the municipal employee if the municipal employee does not submit the required invoices and documentation.

(d) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

- (1) processed in accordance with this section; and
- (2) for which funds are appropriated and available.

(e) The certification provided for in subsection (c)(4) must be on a form prescribed by the state board of accounts.

*As added by P.L.71-1995, SEC.2. Amended by P.L.69-1995, SEC.3; P.L.14-1996, SEC.6; P.L.40-1996, SEC.2; P.L.39-1996, SEC.7; P.L.45-1997, SEC.2; P.L.49-1997, SEC.27; P.L.253-1997(ss), SEC.3; P.L.35-1999, SEC.1; P.L.68-2001, SEC.2; P.L.99-2003, SEC.2 and P.L.191-2003, SEC.2; P.L.1-2005, SEC.78; P.L.169-2006, SEC.4; P.L.182-2009(ss), SEC.77.*

**IC 5-11-10-2**

**Approval and allowance of claims; claim forms; publication of claims and allowances**

Sec. 2. (a) Claims against a political subdivision of the state must be approved by the officer or person receiving the goods or services, be audited for correctness and approved by the disbursing officer of the political subdivision, and, where applicable, be allowed by the governing body having jurisdiction over allowance of such claims before they are paid. If the claim is against a governmental entity (as defined in section 1.6 of this chapter), the claim must be certified by the fiscal officer.

(b) The state board of accounts shall prescribe a form which will permit claims from two (2) or more claimants to be listed on a single document and, when such list is signed by members of the governing body showing the claims and amounts allowed each claimant and the total claimed and allowed as listed on such document, it shall not be necessary for the members to sign each claim.

(c) Notwithstanding subsection (b), only:

- (1) the chairperson of the board of directors of a solid waste management district established under IC 13-21 or IC 13-9.5 (before its repeal); or
- (2) the chairperson's designee;

is required to sign the claim form described under this section.

(d) The form prescribed under this section shall be prepared by or filed with the disbursing officer of the political subdivision, together with:

- (1) the supporting claims if payment is made under section 1 of this chapter; or
- (2) the supporting invoices or bills if payment is made under section 1.6 of this chapter.

All such documents shall be carefully preserved by the disbursing officer as a part of the official records of the office.

(e) Where under any law it is provided that each claim be allowed over the signatures of members of a governing body, or a claim docket or accounts payable voucher register be prepared listing claims to be considered for allowance, the form and procedure prescribed in this section shall be in lieu of the provisions of the other law.

(f) Notwithstanding this section, the publication required by IC 36-2-6-3(b) must state each claim for which a separate warrant or check is to be issued by the disbursing officer except for claims for the following:

- (1) Salaries fixed in a definite amount by ordinance or statute.
- (2) Per diem of jurors.
- (3) Salaries of officers of a court.

*(Formerly: Acts 1953, c.155, s.2.) As amended by Acts 1978, P.L.25, SEC.1; Acts 1979, P.L.37, SEC.2; Acts 1982, P.L.33, SEC.4; P.L.33-1992, SEC.3; P.L.71-1995, SEC.3; P.L.64-1995, SEC.8; P.L.1-1996, SEC.37; P.L.14-1996, SEC.7; P.L.40-1996, SEC.3; P.L.39-1996, SEC.8.*

**IC 5-11-10-3**

**Violations; offense**

Sec. 3. A person who violates section 1 of this chapter is subject to criminal prosecution under IC 35-44.2-2-3.

*(Formerly: Acts 1953, c.155, s.3.) As amended by Acts 1978, P.L.2, SEC.513; P.L.126-2012, SEC.20.*

## **IC 5-11-10.5**

### **Chapter 10.5. Disposition of Warrants and Checks**

#### **IC 5-11-10.5-1**

##### **"Political subdivision" defined**

Sec. 1. As used in this chapter:

"Political subdivision" means county, township, city, town, school corporation, library district, fire protection district, public transportation corporation, local hospital authority or corporation, local airport authority district, special service district, special taxing district, or other separate local governmental entity that may sue and be sued.

*As added by Acts 1980, P.L.8, SEC.47.*

#### **IC 5-11-10.5-2**

##### **Outstanding unpaid warrants or checks void**

Sec. 2. All warrants or checks drawn upon public funds of a political subdivision that are outstanding and unpaid for a period of two (2) or more years as of the last day of December of each year are void. No individual, bank, trust company, building and loan association, or any other financial institution may honor, cash, or accept for payment or deposit any such warrant or check which may be presented for payment and which has been issued and outstanding for a period of two (2) or more years as of the last day of December of any year.

*As added by Acts 1980, P.L.8, SEC.47. Amended by P.L.64-1999, SEC.1.*

#### **IC 5-11-10.5-3**

##### **List of outstanding warrants or checks**

Sec. 3. Not later than March 1 of each year, the treasurer of each political subdivision shall prepare or cause to be prepared a list in triplicate of all warrants or checks that have been outstanding for a period of two (2) or more years as of December 31 of the preceding year. The original copy of each list shall be filed with the:

- (1) board of finance of a political subdivision; or
- (2) fiscal body of a city or town.

The duplicate copy shall be transmitted to the disbursing officer of the political subdivision. The triplicate copy of each list shall be filed in the office of the treasurer of the political subdivision. If the treasurer serves also as the disbursing officer of the political subdivision, only two (2) copies of each list need be prepared or caused to be prepared by the treasurer.

*As added by Acts 1980, P.L.8, SEC.47. Amended by P.L.35-1999, SEC.2.*

#### **IC 5-11-10.5-4**

##### **Content of list**

Sec. 4. Each list prepared under section 3 of this chapter must show:

- (1) the date of issue of each warrant or check;
- (2) the fund upon which the warrant or check was originally drawn;
- (3) the name of the payee;
- (4) the amount of each warrant or check issued; and
- (5) the total amount represented by the warrants or checks listed for each fund.

*As added by Acts 1980, P.L.8, SEC.47.*

#### **IC 5-11-10.5-5**

##### **Procedure upon receipt of list**

Sec. 5. (a) Upon the preparation and transmission of the copies of the list of the outstanding warrants or checks, the treasurer of the political subdivision shall enter the amounts so listed as a receipt into the fund or funds from which they were originally drawn and shall also remove the warrants or checks from the record of outstanding warrants or checks.

(b) If the disbursing officer does not serve also as treasurer of the political subdivision, the disbursing officer shall also enter the amounts so listed as a receipt into the fund or funds from which the warrants or checks were originally drawn. If the fund from which the warrant or check was originally drawn is not in existence, or cannot be ascertained, the amount of the outstanding warrant or check shall be receipted into the general fund of the political subdivision.

*As added by Acts 1980, P.L.8, SEC.47.*

#### **IC 5-11-10.5-6**

##### **Repealed**

*(Repealed by P.L.64-1999, SEC.2.)*

#### **IC 5-11-10.5-7**

##### **Agreements to pay for assistance in recovering outstanding and unpaid check or warrant**

Sec. 7. (a) This section applies to a warrant or a check drawn from the public funds of a political subdivision, if the check or warrant is outstanding and unpaid, but is not determined to be unclaimed property under IC 32-34-1.

(b) An agreement for which the primary purpose is to pay compensation to locate, deliver, recover, or assist in the recovery of a check or warrant described in subsection (a) is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less;
- (2) the agreement is in writing;
- (3) the agreement is signed by the apparent owner; and
- (4) the agreement clearly sets forth:
  - (A) the nature and value of the property; and
  - (B) the value of the apparent owner's share after the fee or compensation has been deducted.

(c) This section does not prevent an owner from asserting at any

time that an agreement to locate property is otherwise invalid.  
*As added by P.L.127-2000, SEC.2. Amended by P.L.2-2002, SEC.33.*

**IC 5-11-11**

**Chapter 11. Investigation of County Records**

**IC 5-11-11-1**

**Request; investigations**

Sec. 1. Whenever the proper fiduciary officer of the government of any county requests the state board of accounts to correct the financial records of the county government by a showing that funds of the county have been taken or withdrawn by unlawful means and that remedies are exhausted, the state board of accounts shall investigate and determine the veracity of the showing and proceed with the correction of the records in the manner required by IC 5-13-13-8, IC 5-13-14-1, and IC 5-13-14-2 for lost funds of municipalities.

*(Formerly: Acts 1961, c.104, s.1.) As amended by P.L.25-1986, SEC.43; P.L.3-1990, SEC.21.*

## **IC 5-11-12**

### **Chapter 12. Modernization of County Records Systems**

#### **IC 5-11-12-1**

##### **Installation of modern tax accounting systems**

Sec. 1. Anything in existing law pertaining to the mode and form of records and accounting system in the offices of the county treasurer and county auditor to the contrary notwithstanding, hereafter the several boards of county commissioners may provide for the installation of modern tax accounting systems in the offices of the treasurer and auditor of such counties by certifying a detailed description of the proposed installation and system and the records, books, ledgers and forms proposed to exemplify such systems and methods to the state board of accounts of the state of Indiana after approval by such board of county commissioners. The said state board of accounts shall examine the forms, systems, and methods so proposed and if approved, shall certify that fact to such board of county commissioners and thereupon such board of county commissioners shall be at liberty, if it find that the installation and adoption of such new system and the use of such new forms will be of benefit to the county and that such benefit will exceed or at least equal the cost thereof, to install, adopt and order the use of such new system, forms, ledgers, and methods; but no expenditure for forms or equipment shall be made nor any obligation incurred for that purpose until funds therefor have been appropriated by the county council as now provided by law. No such records, books, ledgers, forms, system or equipment shall be installed or purchased or leased until and unless the board of commissioners shall have invited and received bids thereon in the manner and subject to the provisions of law concerning the purchase of other county materials, supplies and equipment.

*(Formerly: Acts 1937, c.203, s.1.)*

#### **IC 5-11-12-2**

##### **Change of county systems of accounting; necessity of approval**

Sec. 2. A board of county commissioners may not change its tax accounting system, system of accounting and reporting, or use of forms, ledgers, or other records under this chapter without the approval of the state board of accounts.

*(Formerly: Acts 1937, c.203, s.2.) As amended by P.L.3-1986, SEC.23.*

#### **IC 5-11-12-3**

##### **Approval and certification of systems; purpose of act**

Sec. 3. The state board of accounts shall approve and certify only such systems and methods of accounts and records which are uniform as to the several counties having substantially similar accounting problems in reference to such offices and which will permit of the use of modern office equipment, provide for a progressive audit, insure a complete and accurate report of

government receipts and disbursements, detect error, make fraud difficult, save labor (clerical and other), trace wastes and compare efficiencies, and summarize results in such a manner that the most efficient management of government affairs will be clearly indicated, it being the declared purpose of this chapter to permit the modernization of such accounting system in keeping with the improvement of standards of business efficiency and competency and which will preserve and make as readily available to the public and officials the information required by law to be kept and preserved and made available in the offices affected.

*(Formerly: Acts 1937, c.203, s.3.) As amended by P.L.25-1986, SEC.44.*

#### **IC 5-11-12-4**

##### **Preparation and maintenance of manually prepared ledgers and registers following implementation of automated accounting systems**

Sec. 4. If a county implements, consistent with the provisions of this chapter, an automated accounting system that:

- (1) is in place during at least one (1) state board of accounts audit; and
- (2) is approved by the state board of accounts as a result of that audit;

the county treasurer is not required to prepare and maintain a manually prepared fund ledger and ledger of receipts or a manually prepared register of investments after the date of the approval of the automated accounting system by the state board of accounts.

*As added by P.L.57-1993, SEC.1.*

## **IC 5-11-13**

### **Chapter 13. Executive Officers' Annual Report to State Board of Accounts**

#### **IC 5-11-13-1**

##### **Personnel report; approval of budget or supplemental appropriation**

Sec. 1. (a) Every state, county, city, town, township, or school official, elective or appointive, who is the head of or in charge of any office, department, board, or commission of the state or of any county, city, town, or township, and every state, county, city, town, or township employee or agent who is the head of, or in charge of, or the executive officer of any department, bureau, board, or commission of the state, county, city, town, or township, and every executive officer by whatever title designated, who is in charge of any state educational institution or of any other state, county, or city institution, shall during the month of January of each year prepare, make, and sign a certified report, correctly and completely showing the names and business addresses of each and all officers, employees, and agents in their respective offices, departments, boards, commissions, and institutions, and the respective duties and compensation of each, and shall forthwith file said report in the office of the state examiner of the state board of accounts. The report must also indicate whether the political subdivision offers a health plan, a pension, and other benefits to full-time and part-time employees. However, no more than one (1) report covering the same officers, employees, and agents need be made from the state or any county, city, town, township, or school unit in any one year. The certification must be filed electronically in the manner prescribed under IC 5-14-3.8-7.

(b) The department of local government finance may not approve the budget of a county, city, town, or township or a supplemental appropriation for a county, city, town, or township until the county, city, town, or township files an annual report under subsection (a) for the preceding calendar year.

*(Formerly: Acts 1943, c.100, s.1.) As amended by P.L.11-1987, SEC.10; P.L.169-2006, SEC.5; P.L.172-2011, SEC.14; P.L.137-2012, SEC.9.*

#### **IC 5-11-13-1.1**

##### **Report; statement concerning nepotism and contracting policy**

Sec. 1.1. (a) This section applies to a unit (as defined in IC 36-1-2-23).

(b) A report under section 1 of this chapter that is submitted after December 31, 2012, must include a statement by the executive (as defined in IC 36-1-2-5) of the unit regarding whether the unit has implemented a policy under IC 36-1-20.2 and IC 36-1-21. If a unit does not implement a policy under IC 36-1-20.2 and IC 36-1-21, the department of local government finance may not approve the unit's budget or any additional appropriations for the unit for the ensuing

calendar year.

*As added by P.L.135-2012, SEC.2.*

#### **IC 5-11-13-2**

##### **Filing reports; public record**

Sec. 2. The state examiner shall accept all such reports for filing and keep the same as public records which shall be open to public inspection and examination at reasonable times.

*(Formerly: Acts 1943, c.100, s.2.)*

#### **IC 5-11-13-3**

##### **Violations; offense; penalty**

Sec. 3. A person who violates section 1 of this chapter commits a Class C infraction. If violated by an elected state officer, the officer is liable to impeachment, and if violated by any other person, the person is subject to removal for neglect of duty under the procedures described in IC 34-17.

*(Formerly: Acts 1943, c.100, s.3.) As amended by Acts 1978, P.L.2, SEC.514; P.L.3-1993, SEC.247; P.L.1-1998, SEC.70.*

## IC 5-11-14

### Chapter 14. Annual Conference of Local Fiscal Officers

#### IC 5-11-14-1

##### Conferences; expense allowance

Sec. 1. (a) As used in this section, "official" includes the following:

- (1) An elected official who is entitled to attend a conference under this section.
- (2) An individual elected to an office who is entitled to attend a conference under this section.
- (3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.

(b) The state board of accounts shall annually call a conference of each of the following:

- (1) County auditors and auditors elect.
- (2) County treasurers and treasurers elect.
- (3) Circuit court clerks and circuit court clerks elect.

(c) Each of the conferences called under subsection (b):

- (1) must be held at a time and place fixed by the state examiner;
- (2) may be held statewide or by district; and
- (3) may not continue for longer than three (3) days in any one (1) year.

(d) The following training must be provided at each conference called under subsection (b):

- (1) The proper use of forms prescribed by the state board of accounts.
- (2) The keeping of the records of the respective offices.
- (3) At the conference for county treasurers and treasurers elect, investment training by the following:
  - (A) The treasurer of state.
  - (B) The board for depositories.
  - (C) Any other person the state examiner considers to be competent in providing investment training.
- (4) Any other training that, in the judgment of the state examiner, will result in the better conduct of the public business.

(e) The state examiner may hold other conferences for:

- (1) the officials described in subsection (b); or
- (2) other county, city, or township officers;

whenever in the judgment of the state examiner conferences are necessary.

(f) Whenever a conference is called by the state board of accounts under this section, an elected official, at the direction of the state examiner, may require the attendance of:

- (1) each of the elected official's appointed and acting chief deputies or chief assistants; and
- (2) if the number of deputies or assistants employed:
  - (A) does not exceed three (3), one (1) of the elected official's appointed and acting deputies or assistants; or

(B) exceeds three (3), two (2) of the elected official's duly appointed and acting deputies or assistants.

(g) Each official representing a unit and attending any conference under this section shall be allowed the following:

(1) A sum for mileage at a rate determined by the fiscal body of the unit the official represents for each mile necessarily traveled in going to and returning from the conference by the most expeditious route. Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance even if the official transports more than one (1) person.

(2) An allowance for lodging for each night preceding conference attendance in an amount equal to the single room rate. However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther from the conference location.

(3) Reimbursement of an official, in an amount determined by the fiscal body of the unit the official represents, for meals purchased while attending a conference called under this section.

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

(j) A claim for reimbursement under this section may not be denied by the body responsible for the approval of claims if the claim complies with IC 5-11-10-1.6 and this section.

*(Formerly: Acts 1943, c.116, s.1; Acts 1949, c.89, s.1; Acts 1967, c.67, s.1; Acts 1972, P.L.39, SEC.1; Acts 1975, P.L.15, SEC.5.) As amended by Acts 1977, P.L.55, SEC.1; Acts 1981, P.L.53, SEC.1; P.L.72-1995, SEC.1; P.L.10-1997, SEC.5; P.L.35-1999, SEC.3; P.L.98-2000, SEC.3; P.L.169-2006, SEC.6.*

## **IC 5-11-14-2**

### **Training institute for clerk-treasurers or city clerks**

Sec. 2. The state board of accounts shall annually conduct a training institute for clerk-treasurers and may conduct a training institute for city clerks, either of the entire state or by districts. The provisions of IC 5-11-14, are applicable to any such training institute. *(Formerly: Acts 1971, P.L.50, SEC.1.) As amended by Acts 1977, P.L.55, SEC.2.*

**IC 5-11-15**

**Repealed**

*(Repealed by P.L.35-1985, SEC.34.)*

**IC 5-11-16**

**Repealed**

*(Repealed by P.L.35-1985, SEC.34.)*

**IC 5-11-17**

**Repealed**

*(Repealed by P.L.35-1985, SEC.34.)*

**IC 5-11-18**

**Repealed**

*(Repealed by P.L.35-1985, SEC.34.)*

## **IC 5-11-19**

### **Chapter 19. Transitional Provisions**

#### **IC 5-11-19-1**

##### **Transfers of powers, duties, liabilities, records, property, and employees; rules**

Sec. 1. (a) All powers, duties, liabilities, records, property, and employees of the field examiners retirement board (referred to as FERF in this chapter) are transferred to the board of trustees of the public employees' retirement fund (referred to as PERF in this chapter) (as the board existed before its abolishment on July 1, 2011) as the successor agency. The assets of FERF are transferred to PERF.

(b) Rules of the FERF board of trustees filed with the secretary of state before July 1, 1986, shall be treated after June 30, 1986, as though they had been adopted by the PERF board of trustees (as the board existed before its abolishment on July 1, 2011).

*As added by P.L.35-1985, SEC.25. Amended by P.L.35-2012, SEC.89.*

#### **IC 5-11-19-2**

##### **Date of transfer of employees and recognition of prior creditable service; benefits under repealed section**

Sec. 2. (a) After June 30, 1986, field examiners and other employees of the state board of accounts shall be included as members of PERF and shall be treated as though they were members of PERF during their employment with the state board of accounts. Creditable service that was properly allowed by the FERF board of trustees as of June 30, 1986, shall be recognized by the board of trustees of the Indiana public retirement system as creditable service.

(b) Notwithstanding subsection (a), the members of FERF who were members on April 1, 1967, are entitled to receive retirement, survivor, disability, and all other benefits as provided by IC 5-11-15-13 (repealed) before July 1, 1986.

*As added by P.L.35-1985, SEC.25. Amended by P.L.1-2009, SEC.22; P.L.35-2012, SEC.90.*

#### **IC 5-11-19-3**

##### **Referendum as to repealed section; effect**

Sec. 3. The repeal of IC 5-11-15-10, concerning the referendum for inclusion of field examiners and other employees of the state board of accounts in the federal Social Security Act, does not affect the result of the referendum. After June 30, 1986, IC 5-10.1 applies to these field examiners and other employees.

*As added by P.L.35-1985, SEC.25.*

## **IC 5-11-20**

### **Chapter 20. Retirement Plan Reporting**

#### **IC 5-11-20-1**

##### **Applicable fiscal years**

Sec. 1. This chapter applies only to a political subdivision's fiscal year beginning after December 31, 2012.

*As added by P.L.47-2013, SEC.3.*

#### **IC 5-11-20-2**

##### **"Political subdivision"**

Sec. 2. As used in this chapter, "political subdivision" means a municipality or a local government unit, entity, or instrumentality to which IC 5-11-1-4 applies. The term does not include the state or an instrumentality of the state.

*As added by P.L.47-2013, SEC.3.*

#### **IC 5-11-20-3**

##### **Reporting requirement**

Sec. 3. (a) After December 31, 2013, a political subdivision having an employee retirement plan described in subsection (b) shall, not later than the date each year on which the political subdivision's financial reports are due under IC 5-11-1-4, make an annual report for each of the political subdivision's employee retirement plans described in subsection (b) to the state board of accounts of the information specified in section 4 of this chapter for the political subdivision's immediately preceding fiscal year, in the manner prescribed by the state examiner.

(b) The retirement plans to which this chapter applies are the following:

- (1) Each of the retirement funds for utility employees authorized under IC 36-9.
- (2) Each county police force pension trust and trust fund authorized under IC 36-8.
- (3) Each retirement program adopted by a board of a local health department as authorized under IC 16-1-4-25 (before its repeal) or IC 16-20-1-3.
- (4) Each retirement benefit program of a joint city-county health department under IC 16-1-7-16 (before its repeal).
- (5) Each pension and retirement plan adopted by the board of trustees or governing body of a county hospital as authorized under IC 16-12.1-3-8 (before its repeal) or IC 16-22-3-11.
- (6) Each pension or retirement plan and program for hospital personnel in certain city hospitals as authorized under IC 16-12.2-5 (before its repeal) or IC 16-23-1.
- (7) Each retirement program of the health and hospital corporation of a county as authorized under IC 16-12-21-27 (before its repeal) or IC 16-22-8-34.
- (8) Each pension plan provided by a city, town, or county housing authority as authorized under IC 36-7.

(9) Each pension and retirement program adopted by a public transportation corporation as authorized under IC 36-9.

(10) Each system of pensions and retirement benefits of a regional transportation authority as authorized or required by IC 36-9.

(11) Each employee pension plan adopted by the board of an airport authority under IC 8-22-3.

(12) Each system of pensions and retirement provided by a unit under IC 36-1-3.

(c) The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation for a political subdivision until the political subdivision files each annual report required by subsection (a).

*As added by P.L.47-2013, SEC.3.*

#### **IC 5-11-20-4**

##### **Report elements**

Sec. 4. A report required under section 3 of this chapter concerning a retirement plan must include the following information:

(1) The basic plan parameters, including the following:

(A) The type of plan.

(B) The plan administrator.

(C) The employer sponsoring the plan.

(2) If the plan is a defined benefit plan, the following:

(A) The plan's funding percentage ratio.

(B) The actuarial assumptions for the plan.

(C) The plan's investment returns for the preceding fiscal year.

(3) The total amount of contributions made by the plan sponsor during the preceding fiscal year.

(4) The number of plan participants, including the following:

(A) The number of active participants.

(B) The number of participants who are retired or separated from service.

(5) Any other information concerning the plan required by the state examiner.

*As added by P.L.47-2013, SEC.3.*

#### **IC 5-11-20-5**

##### **Annual summary by the state examiner**

Sec. 5. The state examiner shall, not later than July 1 of each year, submit a report to the general assembly in an electronic format under IC 5-14-6 that summarizes the retirement plan information received for the immediately preceding fiscal year under section 3 of this chapter.

*As added by P.L.47-2013, SEC.3.*