



## **HB1343, Libraries (as passed out of the Senate Local Government Committee 3/28/19)**

**Abbreviated high-level summary of HB1343 as of 3/28:** [HB1343](#) allows a fiscal body the option to require binding review in the event if one of three criteria are met related to increases to the certified budget or certified levy that are over 10% over prior year or unallocated funds that exceed 200% of the public library's proposed budget. Under binding review, the cuts could not exceed 10% of prior year's certified budget or certified levy. A public notice and hearing would be required (similar to those required for changes to Local Income Tax). The effective date is Sept. 1.

Legislators express their intent is to bring public libraries to collaborative conversation about property and local income tax in a community. The main idea is that public libraries would not budget or levy more than 10% over the operating budget without a specific plan—in other words, libraries cannot take max levy to build large reserves without a plan. Legislators recognize that some libraries may continue to build reserves for a specific capital improvement project, which may not necessarily trigger the review if Council is informed of the capital improvement plan in advance. Therefore, a library may still budget or levy for more than 110% of last year's budget or levy, but could be subject to review and cut not more than 10%.

### **ILF's Response (updated 3/28/2019)**

**Legislator Interactions** – First, it is critical to maintain positive, working relationships with all. Certain legislators are responding to concerns expressed by taxpayers or other elected officials in their communities. Library budgets are complicated, with similarities and differences to other government units. Libraries budget in accordance with the law and guidance from DLGF and SBOA. ILF has worked collaboratively with legislators.

**ILF Position – *ILF supports the passage of HB1343 as amended by the Senate Local Government Committee.*** ILF worked diligently with bill authors, sponsors and committee members on amendment language that would clarify the fiscal body and outline criteria that could trigger a Council to require binding review. ILF agrees that libraries should have capital improvement plans if they are building reserves and should communicate their plans with the community. ILF agrees that libraries, like all other local units, should work collaboratively in providing outstanding services and ensuring taxpayer stewardship. We agree that taxpayer stewardship, accountability and transparency are paramount. ILF sincerely *appreciates the amendments to HB1343 in response to our concerns. ILF appreciates working with Senators on the amendment language.*

***We remain concerned about second reading amendments or conference committee actions that could remove the guardrails that were added by the Senate Local Government Committee.***

**Status of bill as of 3/29:** Hypothetical [scenarios](#) were drafted under the two criteria to compare current law to HB1343. DLGF is being consulted to determine potential conflicts or issues with implementation, if enacted.

## Key talking points explaining Library Budget Process

### Current law and rules provides processes for addressing local concerns.

- The Indiana General Assembly established the system used by libraries for budgets, tax levy and reserves. Libraries are following the law, guidance by Department of Local Government Finance (DLGF) and State Board of Accounts (SBOA). Libraries follow the law and guidance provided by the State, including the maintenance of responsible reserves for emergencies, maintenance and capital improvements. Note that libraries are advised to take the max levy in order to be eligible for the certified shares of Local Income Tax.
- **Library Boards are appointed by, and can be removed by, elected bodies.**
- **Information on Gateway requires context.** The financial information contained in reports on Gateway provides a level of transparency, but does not tell the complete story. Gateway does not reflect issues of timing in distributions, capital improvement plans or staff degrees or tenure.
- **Current law and processes provide multiple levels of accountability and transparency for libraries.** Libraries are required to follow budget and audit processes by DLGF and SBOA just like counties and other units of government. All important decisions must be reviewed and approved at public meetings, including library policies, salaries, budgets and monthly finances. Reports are available online at [Indiana Gateway](#) and [Indiana State Library](#).
- **Libraries take their fiscal responsibilities seriously.** According to the law, libraries may not levy for cumulative funds as other units do (i.e. cumulative or capital funds for schools, jails, cemeteries, etc.). Libraries may only levy for operating budget. Libraries maintain a Rainy Day Fund and a Library Improvement Reserve Fund (LIRF), which may be used to fund maintenance and capital improvements of HVAC units, roofs, carpet, building expansion, etc. Funds are used without requiring an adjustment to the tax rate, new bonds or additional debt and to sustain during economic downturns. See page 2 of [infographic](#) to explain LIRF.
- **The process of binding review and the ability to cut a budget or levy by a Council could:**
  - raise additional concerns about **subverting authority of other elected bodies** that appoint to the library board. Many library boards include appointees from Council (2), Commissioners (2), School Boards (3), the appointing bodies varying depending upon how many jurisdictions are within a library district.
  - **disenfranchise certain taxpayers and communities** where library districts overlap many jurisdictions. Several library districts cross county lines, expanded beyond a city or township into townships.
  - **feel punitive and uneven.** Currently, appointees from multiple elected bodies work collaboratively to execute library services and fiscal authority. A council member who does not like a library's plan for capital improvements could require binding review and reduce library funding against the wishes of the other elected bodies with appointing power.
  - **reduce the amount of Local Income Tax (LIT).** Indiana libraries receive on average 23% of operating revenue from Local Income Tax, with some as high as 89%. A reduction in levy triggers a reduction in LIT.
  - intensify an **inherent conflict of interest** in areas where the tax caps are in play, as it would benefit the council to reduce the library budget. Libraries, on average, are \$0.04 of the average property tax dollar (see [DLGF](#)). The Indiana Fiscal Policy Institute's report, [What Do We Know About Property Tax Caps?](#) underscores the relationship with libraries.
    - Libraries have a higher percentage of property tax cap losses than counties (see chart on p. 21).
    - Reducing a library's budget would allow other entities to increase their revenues (not the max levy, but what they actually receive) by mitigating the property tax caps effects.
    - **would not reduce the amount that the taxpayer pays** (if at caps), but would benefit the county (p. 25).

***HB1343 sponsors have agreed to bring corrective legislation if there are examples of a Council using binding review as a punitive action rather than a collaborative process under the option allowed under HB1343.***

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The following pages provide additional background and Indiana Code references.

With specific questions, please contact one of the public library director members of [the ILF Advocacy/Legislative Committee](#) or [Lucinda Nord, ILF executive director](#), at 317-257-2040 or [exec@ilfonline.org](mailto:exec@ilfonline.org).

## Background on Library Organizational Structure

Historically, libraries in Indiana have existed since the establishment of the state, but without sustainable funding until the early 1900s when library laws were written to allow for sustainable funding through the levy of property taxes for libraries. Prior to that, libraries fell under the counties (Constitution of 1816, Article IX) or townships (1860s) without measures to annually fund them. Libraries have always existed in Indiana in order to provide life-long learning opportunities essential to maintaining a democracy.

## Appointed Boards for Public Libraries

Periodically, someone raises the question of whether public library board members should be appointed—as is current law—or elected. Under current law, IC 36-12-2-7 through IC 36-12-2-17, public library board members are appointed by elected bodies within and representative of their library district. Most public library boards are comprised of seven members, though four county contractual libraries have an additional four members. Appointing authorities vary depending upon the formation of the library district and are usually elected offices such as the county or municipality executive, the county fiscal body (council) and school boards or corporations. Elected offices make appointments to library boards, whose members serve voluntarily, are unpaid and may serve up to four, four-year terms (16 years). Library boards set library policies, approve the budget and have fiscal responsibility, hire and evaluate the library director and oversee library planning.

In providing this governance structure for libraries, the Indiana General Assembly has kept library operations under library board oversight and as far as possible outside the political sphere of government. The independent authority granted to public library boards is intended to protect the historic role of the public library as a source of unbiased information. ILF historically has advocated for the continuation of appointed boards, citing the importance of volunteers who guide policy based on service to mission and community rather than based on political goals.

While some will make the case for elected boards, one should remember that even elected boards deal with many of the same issues on transparency, finances, communication with public, etc. Appointing bodies can replace ineffective board members.

## Information on Gateway requires context

- [Indiana Gateway for Governments](#) provides Indiana taxpayers access to a range of reports about units of government, including budgets, operating and reserve funds and compensation of public employees. The financial information contained in reports on Gateway provides a level of transparency, but does not tell the complete story.
- Property tax disbursements, the primary source of revenue for most public libraries, are made twice a year, so if the “snapshot” is taken at disbursement, the amounts appear artificially higher, not recognizing that the library will spend down funds over six months.
- Information on Gateway does not include information from long-range plans which are submitted to, and approved by, the Indiana State Library as a part of Public Library Standards (IC 36-12 and 590 IAC 6). Long-range plans may include plans for facility maintenance, capital improvements and special initiatives.
- According to the law, libraries may not levy for cumulative funds as other units do (i.e. cumulative funds for schools, jails, cemeteries, etc.). Libraries may only levy for operating budget. Libraries maintain a Rainy Day Fund and a Library Improvement Reserve Fund (LIRF), which may be used to fund maintenance and capital improvements of HVAC units, roofs, carpet, building expansion, etc. Funds are used without requiring an adjustment to the tax rate, new bonds or additional debt and to sustain during economic downturns.
- Compensation reports do not include the length of tenure or job duties of an employee. For example, Public Library Standards requires a ratio of staff who hold a Master’s of Library and Information Science for the library’s population served. A certain number of masters-level librarians are employed in management positions. The managing librarians in a public library may be comparable to the managers in a unit or the principals in a school system. The public library director may be comparable to a superintendent. Public Librarians and library staff generally are compensated at or below those in school systems, work more days each year and are required to work night and weekend shifts.

## Public Library Transparency and Accountability

Current law and practices provide transparency and accountability for public libraries, their budgets, revenues and expenditures and policies. Libraries are highly regulated through the Indiana Code (IC 36-12) and the Indiana Administrative Code (590 IAC 6). One could argue that public libraries are more transparent by nature and more aware of the need for transparency because, as the cornerstone of democracy, libraries inform and help the public navigate local governments.

- **Appointed by Elected Officials** - Library Board members are appointed by elected bodies, and thus may be removed if the board members are not performing their duties, as desired by the elected body.
- **Open Door compliance**— Libraries comply with open door laws.
  - All Library Board meetings must be posted and open to the public (with exception of executive session as allowed by law) and with minutes kept and available to public, etc.
  - Policies must be approved at public meetings.
  - Salaries must be approved at public meetings and reported to county and state, etc.
  - Finances are reviewed and approved at public meetings.
- **Budget processes** –
  - Libraries follow budget processes by State Board of Accounts (SBOA) and Department of Local Government Finance (DLGF) just like counties and other units of government.
  - Some might argue that library efforts are more transparent given that budgets and reviews are done independently and not as a department that may be buried in a county budget.
- **Public bids and bond processes** –
  - Libraries go out for public bids when conducting building projects.
  - Sometimes libraries will borrow money or sell bonds, which is a very public process by requirements.
- **Long-range planning** - Libraries are required to submit a long-range plan every 3-5 years for approval by the Indiana State Library as a part of public library certification. Public Library Certification processes are outlined in Indiana Code (IC 36-12) and in Indiana Administrative Code (590 IAC 6).
- **Audits and Reporting**
  - All libraries complete annual reports to the State Board of Accounts and to the Indiana State Library and those reports are available online at [Indiana Gateway](#) and [Indiana State Library](#).
  - All libraries are audited by the State Board of Accounts.
  - One could argue that the levels of transparency are far beyond other units of government, as county or city departments do not have every expenditure for review and approval, as required for libraries. No matter what entity has binding authority over a library budget (whether county, township, city), it is in their best interest to reduce the libraries' budgets so that more revenues come to them - revenues including income tax and/or property taxes. With a reduction in property taxes for one unit, the other units gain (because of property tax caps).

## Taxpayer Stewardship and Budget Frugality – Libraries are good stewards of taxpayer funds.

- Good leadership and stewardship shares more information than is required by law – regardless of whether a library, a county, a city, etc. Good leadership seeks input and welcomes questions. A board can require additional information, and appointing bodies can replace ineffective board members.
- Unlike some other units of government that feverishly spend at the end of a fiscal year because of a “use-it-or-lose-it” budget, the law enables frugality and financial preparation for the future by allowing unspent funds to be placed into a Rainy Day or transferred to a Library Improvement Reserve Fund (LIRF).
- Healthy and responsible reserves are critical to positive bond ratings.
- Unlike some other units of government that rely on bonds and new debt, Rainy Day and LIRF funds can be saved over time to enable facility maintenance or capital projects without requiring an adjustment to the tax rate or a new bond or debt.
- Long-time library directors and boards remember the delayed assessment that delayed release of funds in (2002-2004) and the recession (2008-2011) when tax revenues declined. Libraries with reserves were able to borrow against or use reserves rather than going to a bank or laying off staff or closing libraries.