THE STRUCTURE AND FUNCTION OF THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE OF THE STATE OF INDIANA

(Note: The legislature abolished the State Board as of December 31, 2001. Effective January 1, 2002, the legislature created the Department of Local Government Finance ("DLGF") and the Indiana Board of Tax Review ("Indiana Board"). See I.C. 6-1.1-30-1.1 and I.C. 6-1.5-1-3. Pursuant to I.C. 6-1.5-5-8, the DLGF is substituted for the State Board in appeals from final determinations of the State Board that were issued before January 1, 2002.)

Article 1.1 of Title 6 of the Indiana Code provides for the property taxation of all tangible property within the jurisdiction of the State of Indiana, and this Article establishes the Department of Local Government Finance which is responsible for administering the property tax laws. Article 1.5 of Title 6 of the Indiana Code establishes the Indiana Board of Tax Review which is responsible for administrative adjudication of determinations made by assessing officials, County Property Tax Assessment Board of Appeals, and the Department of Local Government Finance.

The Department of Local Government Finance, which is establish by I.C. 6-1.1-30-1.1, has a Commissioner who is appointed by the Governor and serves as the executive and chief administrative officer of the department. The Commissioner serves at the pleasure of the Governor and may delegate authority to department staff. The Commissioner must appoint an individual, who is approved by the Governor, to serve as Deputy Commissioner of the Department of Local Government Finance. See I.C. 6-1.1-30-7. The Deputy Commissioner must take an oath to faithfully discharge the duties assigned to him or her by law or by the Commissioner. See I.C. 6-1.1-30-7. To properly and efficiently perform its duties, the Department of Local Government Finance is authorized to employ assistants, clerks, stenographers, field representatives, and supervisors. See I.C. 6-1.1-30-8. The Commissioner may delegate to a field representative or supervisor the Department of Local Government Finance’s power to carry out any duty of the department. See I.C. 6-1.1-30-10.

After a field representative or supervisor conducts a review, the field representative or supervisor must submit a written report of the findings of fact and conclusions of law to the Department of Local Government Finance. See I.C. 6-1.1-30-12. The Department of Local Government Finance may take additional evidence or hold additional hearings after reviewing the report. See I.C. 6-1.1-30-12. The final decision is to be based on the report, any additional evidence taken, and any records which the Department of Local Government Finance considers relevant. See I.C. 6-1.1-30-12.

Information which relates to earnings, income, profits, losses, and expenditures and is given by a person to an assessing official or acquired by an assessing official in performance of the assessing official’s duties is confidential. However, the assessed valuation of tangible property is a matter of public record and is not confidential. See I.C. 6-1.1-35-9. The Department of Local Government Finance is required to keep an open public record of all of its proceedings and orders. See I.C. 6-1.1-30-6. The public has a right to inspect and make copies of these records, even if the member of the public has no special interest in the information. See 1901-1910 Ind. O.A.G. 263.

The division of the Department of Local Government Finance which is created by I.C. 6-1.1-33-1 is known as the "division of tax review." The Department of Local Government Finance must select enough employees for the division of tax review to properly perform its duties. See I.C. 6-1.1-33-2. Furthermore, an employee of the division of tax review may not be required to engage in political activities as a condition of employment. See I.C. 6-1.1-33-2.

The division of tax review is required to: conduct continuing studies in the area in which the Department of Local Government Finance operates; make periodic field surveys and audits of tax rolls, plat books, building permits, real estate transfers, gross income tax returns, federal income tax returns, and other data useful in checking property evaluations or taxpayers’ property tax returns; make test checks of property valuations; and furnish the Department of Local Government Finance with information in the form and at the time which the Department of Local Government Finance requests. See I.C. 6-1.1-33-3.

In carrying out its duties, the division of tax review may: request access to any local or state official records; secure information from the federal government or from public or private agencies; inspect a taxpayer's books, records, or property; conduct a review of all or a random sampling of tangible personal property or real property assessments; employ professional appraisal firms to assist in making test checks of tangible property evaluations; recommend changes in tangible property tax administration; and, use any other technique to equalize tax burdens or to implement the Indiana tangible property tax laws. See I.C. 6-1.1-33-4.

The major function of the Department of Local Government Finance is to promulgate certain rules, regulations, and forms to further the administration of the tangible property tax laws of the State of Indiana. Article 21.5 of Title 4 of the Indiana Code provides for administrative orders and procedures for agencies and does apply to the Department of Local Government Finance, among other agencies. See I.C. 4-21.5-2-4. The Department of Local Government Finance is also subject to Article 22 of Title 4 of the Indiana Code which provides for administrative rules and
The Department of Local Government Finance is required to prescribe or promulgate tangible property tax forms and returns which taxpayers are to complete and upon which assessments will be based, forms to be used in order to give taxpayers notice of assessment actions, and rules and regulations dealing with the assessment of tangible property. See I.C. 6-1.1-31-1. However, the Department of Local Government Finance may not adopt rules for the appraisal of real property in a general reassessment after July 1 of the year before the year in which the general reassessment is scheduled to begin unless the rules for the appraisal of the real property are disapproved by the Attorney General, in which case the Department of Local Government Finance may modify the rules in order to cure the defect that resulted in the disapproval. See I.C. 6-1.1-31-9.

Rules and regulations adopted under I.C. 6-1.1-31 et seq. must be approved by a three-person panel. The Department of Local Government Finance may take final action to adopt a rule only if there are at least two affirmative votes for adoption from the three-person panel. See I.C. 6-1.1-31-13. If the vote results in disapproval of rule adoption, the Department of Local Government Finance may not propose the same or substantially similar rule for adoption until at least one year after the date of the vote. The Department of Local Government Finance must make a written record of the vote under this subsection. The record of the vote is a public record. See I.C. 6-1.1-31-13. The three-person panel consists of the Commissioner and two individuals appointed by the Governor. The two appointed individuals serve for one year and at the pleasure of the Governor. The two appointed individuals must be familiar with the duties and operations of the Department of Local Government Finance; not be employees of the department; and not be affiliated with the same political party. The two appointed individuals are entitled to a minimum salary per diem provided by law; and are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the individuals’ duties as provided in state policies and procedures established by the Indiana Department of Administration and approved by the State Budget Agency. See I.C. 6-1.1-31-13. The Department of Local Government Finance must provide facilities and support to the appointed individuals and allow each appointed individual at least two weeks to review a proposed rule before a vote is taken. See I.C. 6-1.1-31-13.

In preparing the aforementioned rules, regulations, tangible property tax forms and tangible property tax returns, the Department of Local Government Finance may consider: data compiled by the federal government or the State of Indiana and its taxing authorities; data compiled and studies made by a state college or university; generally accepted practices of appraisers; generally accepted indices of construction costs; generally accepted indices of income accruing from real property for assessments after February 28, 2001; and, any other information which is available to the Department of Local Government Finance. See I.C. 6-1.1-31-3.

In promulgating rules and regulations respecting the assessment of real property, the Department of Local Government Finance is required to provide for classification of land on the basis of: acreage; lots; size; location; use; productivity or earning capacity; applicable zoning provisions; accessibility to highways, sewers and other public services or facilities; and, any other factor which is just and proper. See I.C. 6-1.1-31-6. With respect to the assessment of real property, the rules and regulations of the Department of Local Government Finance must also provide for the classification of improvements on the basis of size, location, use, type and character of construction, age, condition, cost of reproduction, and any other factor which is just and proper. See I.C. 6-1.1-31-6. The rules and regulations of the Department of Local Government Finance respecting the assessment of real property must also include instructions for determining the proper classification of real property; the size of real property: the effects that location and use have on the value of real property; the depreciation, including physical deterioration and obsolescence, of real property; the cost of reproducing improvements; the productivity or earning capacity of real property; the true tax value of real property based on the above factors; and, any other just and proper factors. See I.C. 6-1.1-31-6. The Indiana Court of Appeals has upheld the following factors on the basis that such factors are just and proper for assessing real property: oil and gas production from the real property (see Board of Commissioners of Sullivan County v. Heap, 155 Ind. App. 633, 294 N.E.2d 182 (1973)); the fact that oil-producing wells are situated on the property (see Risley v. Rumble, 81 Ind. App. 573, 144 N.E. 568, (1924)); and, the ownership of mineral rights in the real property (see Board of Commissioners of Vigo County v. Hale, 156 N.E. 172, 84 Ind. App. 183 (1924)). In addition to the aforementioned rules and regulations, the Department of Local Government Finance may also adopt appraisal manuals, bulletins, and directives for the assessment and reassessment of real property. See I.C. 6-1.1-4-26.

In promulgating the rules and regulations with respect to the assessment of tangible personal property, the Department of Local Government Finance must provide for classifications on the basis of: the tangible personal property's date of purchase; location; use; depreciation, obsolescence, and condition; and, any other just and proper factors. See I.C. 6-1.1-31-7. The rules and regulations with respect to the assessment of tangible personal property must also include instructions for determining: the proper classification of tangible personal property; the effect which a location has on the value of tangible personal property; the cost of reproducing tangible personal property; the
depreciation, including physical deterioration and obsolescence, of tangible personal property; the true tax value of tangible personal property based on the above factors; and, any other just and proper factors. See I.C. 6-1.1-31-7. In promulgating the rules and regulations with respect to the classification of tangible personal property and the instructions discussed above, the Department of Local Government Finance must not include the value of land as a cost of producing tangible personal property which is subject to reassessment. See I.C. 6-1.1-31-7.

The Department of Local Government Finance is also empowered to adopt rules and regulations from the exchange of information with an officer or agency of another state or the United States. See I.C. 6-1.1-31-8. Pursuant to those rules and regulations, the Department of Local Government Finance may furnish any information in its possession to such an officer or agency if the information is furnished under a reciprocal arrangement which provides that the Department of Local Government Finance will receive like information from the officer or agency. See I.C. 6-1.1-31-8. The Department of Local Government Finance is further empowered to promulgate rules and regulations which relate to its duties and procedures. See I.C. 6-1.1-31-1(b).

The rules and regulations promulgated by the Department of Local Government Finance are to be the basis for determining the "true tax value" of tangible property for tax purposes. See I.C. 6-1.1-31-5. "True tax value" is the value determined under the rates of the Department of Local Government Finance, and it is not the same as the fair market value of the property. See I.C. 6-1.1-31-7(d) and 6-1.1-31-6(c). Therefore, local officials must: comply with the rules, regulations, appraisal manuals, bulletins and directives adopted or promulgated by the Department of Local Government Finance; use property tax forms, returns and notice forms prescribed or promulgated by the Department of Local Government Finance; and, collect and record the data required by the Department of Local Government Finance. See I.C. 6-1.1-31-5. However, in assessing tangible personal property, the township assessors may consider factors in addition to those prescribed by the Department of Local Government Finance, providing that the Department of Local Government Finance has approved the additional factors. See I.C. 6-1.1-31-5.

With one exception, the Department of Local Government Finance does not make the initial assessment of tangible property, either real or personal, upon which a taxpayer's property tax liability will be based. The one exception to this rule, which will be discussed later, is the property assessment of a public utility company. At this point, a discussion is undertaken with regard to the Department of Local Government Finance’s duties to review and reassess property assessments not initially made by the Department of Local Government Finance.

The Department of Local Government Finance is required to review the business personal property tax return of taxpayers who report a total assessed value of $15,000 or more. The Department of Local Government Finance must identify the returns upon which the assessment appears to be improper. See I.C. 6-1.1-14-3. For purposes of review, each county assessor is required to transmit to the Department of Local Government Finance each business personal property return which reports a total assessed value of $15,000 or more. See I.C. 6-1.1-14-2.

A County Property Tax Assessment Board of Appeals, which is established by I.C. 6-1.1-28-1, is composed of five members: the county assessor, two members appointed by the county fiscal body, and two freehold members appointed by the board of commissioners. Only one other individual who is an officer or employee of a county or township may serve on the board of appeals in the county in which the individual is an officer or employee. Not more than three of the five members of the board of appeals may be of the same political party and at least three of the five members must be residents of the county. However, the political party and residency requirements may be waived to ensure that the requisite number of certified level two assessor-appraisers is on the board of appeals. At least one of the members appointed by the county fiscal body and at least one of the members appointed by the county board of commissioners must be a certified level two assessor-appraiser. However, if the county assessor is a certified level two assessor-appraiser, the board of county commissioners may waive the requirement in this subsection that one of the freehold members appointed by the board of county commissioners must be a certified level two assessor-appraiser. See I.C. 6-1.1-28-1. Any question which is properly before the County Property Tax Assessment Board of Appeals may be decided by agreement of a majority of the whole board. See I.C. 6-1.1-28-1.

Before performing any duties, each member of a County Property Tax Assessment Board of Appeals must take an oath administered by and filed with the county auditor. See I.C. 6-1.1-28-2. The county council is to fix a per diem rate of compensation to be paid by the county treasury to the members of a County Property Tax Assessment Board of Appeals. The county assessor is required to keep an attendance record and certify the number of days served by each member. See I.C. 6-1.1-28-3.

A County Property Tax Assessment Board of Appeals must remain in session until the board's duties are complete. The Department of Local Government Finance may call a session of a County Property Tax Assessment Board of Appeals after completion of a general reassessment of real property. The Department of Local Government Finance must fix the time for and duration of the session, for which all expenses and per diems of a County Property Tax Assessment Board of Appeals must be paid by the county auditor from county funds. See I.C. 6-1.1-28-8.
Notice of the time, place, and purpose of each annual session of a County Property Tax Assessment Board of Appeals is to be given by the county auditor two weeks before the first meeting of a County Property Tax Assessment Board of Appeals. See I.C. 6-1.1-28-6.

A County Property Tax Assessment Board of Appeals has the power to: (1) subpoena witnesses; (2) examine witnesses, under oath, regarding the assessment or valuation of property; (3) compel witnesses to answer inquiries regarding the assessment or valuation of property; and (4) order the production of any papers relevant to the assessment or valuation of property. See I.C. 6-1.1-28-9.

A County Board of Tax Adjustment, which is established by I.C. 6-1.1-29-1, is to be composed of seven members, one appointed by the county council, one appointed by either the mayor of the largest city in the county or a public official appointed by that mayor, one who is a member of the governing body of the school corporation which has the greatest taxable valuation of any school corporation in the county, and four freehold members appointed by the board of commissioners of the county. See I.C. 6-1.1-29-1. No more than four County Board of Tax Adjustment members may be of the same political party. The seven members of a County Board of Tax Adjustment are to be appointed before April 15 of each year and are to continue until April 15 of the following year. I.C. 6-1.1-29-2.

However, a county council may adopt an ordinance to abolish the county board of tax adjustment. See I.C. 6-1.1-29-9. The first meeting of each County Board of Tax Adjustment is to be held each year on September 22 or on the first business day after September 22, if September 22 is not a business day at the office of the county auditor. However, a County Board of Tax Adjustment for a consolidated city and county and for a county containing a second class city must hold its first meeting of each year on the first Wednesday following the adoption of the city and county budget, tax rate, and tax levy ordinances at the office of the county auditor. At this time the County Board of Tax Adjustment is to elect a chairman and a vice-chairman. See I.C. 6-1.1-29-4.

The four freehold members of a County Board of Tax Adjustment are to be compensated on a per diem basis for each day of service at the same rate at which the members of the County Property Tax Assessment Board of Appeals are compensated. See I.C. 6-1.1-29-6.

The Department of Local Government Finance is required to review the assessment of all tangible property, personal or real, made by the various counties of the State of Indiana. See I.C. 6-1.1-14-4. If the Department of Local Government Finance determines that the assessment of a county appears to be improper, the Department of Local Government Finance must mail a certified notice to the auditor of that county, informing him or her of the Department of Local Government Finance’s determination to consider modification of that county’s assessments. See I.C. 6-1.1-14-4. The notice must state whether the modification under consideration is related to real property, personal property, or both. See I.C. 6-1.1-14-4. The notice must also state a date, at least ten days after the day on which the notice is mailed, when a hearing on the assessment will be held. See I.C. 6-1.1-14-4.

The Department of Local Government Finance must likewise give notice to the taxpayers of each county for which the Department of Local Government Finance is to consider an increase in assessment. See I.C. 6-1.1-14-9. The notice must state the time, place, and object of the hearing on the assessments and must be published once in two newspapers of general circulation published in the county; or, one newspaper of general circulation published in the county, if two newspapers of general circulation are not published in the county; or if there is no newspaper of general circulation published in the county, the notice must be given by posting a statement of the time, place and object of the hearing in the county courthouse at the usual place for posting public notices. See I.C. 6-1.1-14-9. The published or posted notice of a hearing must be given at least ten days prior to the time established for the hearing. See I.C. 6-1.1-14-9.

After the hearings, the Department of Local Government Finance may, in order to equalize assessed values in the county or state as a whole, issue an order increasing or decreasing assessed values of any tangible property. Such an order may be issued only if the assessed values in any county are not uniform and equal as to townships, portions of the same township, or classes of property; or the assessed values in the state are not uniform and equal either as between counties or as to classes of property. See I.C. 6-1.1-14-5. The equalization order must state the percentage to be added to or deducted from the assessed value of the tangible property affected by the order. See I.C. 6-1.1-14-5.

The Department of Local Government Finance’s authority to order equalization, described above, is limited. First, the Department of Local Government Finance is not permitted to issue an equalization order to increase or decrease assessed values more than twelve months after the county estimate abstracts are filed with the Department of Local Government Finance. See I.C. 6-1.1-14-5. Also, when issuing an equalization order, the Department of Local Government Finance may not reduce or increase the aggregate assessed values of any township beyond the amounts actually necessary for a just and proper equalization of assessments within the State of Indiana. See I.C. 6-1.1-14-5.

The Indiana Court of Appeals has held that the object of equalization is not to increase assessments for the purpose of providing greater revenues; rather, the purpose of equalization is to remove inequalities in existing
assessments. The end sought is relative equality of assessments throughout the State of Indiana. See Bell v. Meeker, 39 Ind. App. 224, 78 N.E. 641 (1906).

If an equalization order is issued, the Department of Local Government Finance must mail certified copies of the order to the auditor and sheriff of each affected county. See I.C. 6-1.1-14-6. Further, notice must be given to the taxpayers of each county to which the order is directed in the same manner as is required for the notice of the hearing for the purpose of equalization. See I.C. 6-1.1-14-9.

Rehearing and review of equalization orders are only allowed if certain criteria are met. First, a county assessor, a township assessor, or ten or more taxpayers, who are affected by the equalization order, must file a petition for review of the order with the assessor of the county in which the equalization order is issued. See I.C. 6-1.1-14-7. The petition must be filed within ten days after the certification of the order. See I.C. 6-1.1-14-7. The petition must set forth, in a form described by the Department of Local Government Finance, taxpayer objections to the equalization order. See I.C. 6-1.1-14-7.

If the above requirements are satisfied, the county auditor must immediately mail the certified copy of the petition and any information relevant to the petition to the Department of Local Government Finance. See I.C. 6-1.1-14-8. Within a reasonable period of time, the Department of Local Government Finance must set a date for the petition hearing which must be held in the county to which the equalization order has been directed. See I.C. 6-1.1-14-8. At least three days before the date set for the hearing, the Department of Local Government Finance must give notice of the hearing by mail to the township or county assessors whose assessments are affected by the order, and to the first ten taxpayers whose names appear on the petition for review. See I.C. 6-1.1-14-8. In addition, the Department of Local Government Finance must give notice to the taxpayers of each county affected by the order in the same manner that was required for the notice of the initial equalization hearing. See I.C. 6-1.1-14-8.

The Department of Local Government Finance, after the hearing, may affirm, modify or set aside its equalization order. The Department of Local Government Finance must certify its action with respect to the county auditor, who must immediately make any changes in the assessed values required by the Department of Local Government Finance’s action. See I.C. 6-1.1-14-8.

If a proper petition for reassessment of real property is filed with the Department of Local Government Finance and if the current assessed value of the real property located within a township is inequitable, the Department of Local Government Finance may be required to order the reassessment of all the property located within a township. In order to be valid, the petition for reassessment must be filed with the Department of Local Government Finance on or before March 31 of any year which is not a general election year and in which there is no general reassessment of real property. See I.C. 6-1.1-4-5. The petition for reassessment must also be signed by not less than the following percentage of all the owners of taxable real property who reside in that township: 15% for a township which does not contain an incorporated city or town; 5% for a township containing all or part of an incorporated city or town which has a population of 5,000 or less; 4% for a township containing all or part of an incorporated city which has a population of more than 5,000, but not exceeding 10,000; 3% for a township containing all or part of any incorporated city which has a population of more than 10,000, but not exceeding 50,000; 2% for a township containing all or part of an incorporated city which has a population of more than 50,000, but not exceeding 150,000; or 1% for a township containing all or part of an incorporated city which has a population of more than 150,000. See I.C. 6-1.1-4-5. The signatures on the petition must be verified under oath by one or more of the persons signing the petition and by a certificate of the county auditor stating that the persons signing the petition constitute the required number of resident owners of taxable real property in the township. See I.C. 6-1.1-4-5.

If the Department of Local Government Finance determines that the petition has been signed by the required number of petitioners and that the present assessed value of any real property in the township is inequitable, the Department of Local Government Finance must order a reassessment of the real property which has been inequitably assessed. See I.C. 6-1.1-4-6. The order must specify the time within which the reassessment will be completed and the date on which the reassessment will be effective. See I.C. 6-1.1-4-6. The Indiana Supreme Court has held that it is constitutional for a statute to provide for local reassessment without general reassessment. Specifically, the Indiana Supreme Court held that the State Board of Tax Commissioners (now the Department of Local Government Finance) is required to ascertain the existence of inequalities in assessments and to order reassessments to maintain uniformity without resorting to a statewide revaluation. See Lake County Board of Review of Assessments v. Kranz, 224 Ind. 358, 66 N.E.2d 896 (1946).

Taxpayers cannot petition for reassessment of their particular parcel of land, as was previously allowed under I.C. 6-1.1-4-7 (now repealed), without requesting reassessment of the property of the entire township as required under I.C. 6-1.1-4-5.

If a petition is filed under I.C. 6-1.1-4-5, the Department of Local Government Finance must give notice of the
hearing it will hold on the petition. The notice must be given at least ten days before the hearing, by publication in each of two newspapers of general circulation which represent different political parties and are published in the county in which the property that is to be reassessed is located. However, if two such newspapers are not published in the county, publication of the notice in one newspaper of general circulation published in the county is sufficient. See I.C. 6-1.1-4-10.

The Indiana Court of Appeals has held that the State Board of Tax Commissioners (now the Department of Local Government Finance), in the course of reassessment of real property hearings, must give taxpayers the opportunity to meet or rebut any evidence received by the State Board of Tax Commissioners. The Indiana Court of Appeals held that it is a denial of due process for the State Board of Tax Commissioners to consider evidence received outside the presence of an interested party who is without notice of its consideration and who is not afforded an opportunity to rebut the evidence. See State Board of Tax Commissioners v. Oliverius, 156 Ind. App. 46, 294 N.E.2d 646 (1973).

Where a substantial amount of real and personal property in a township has been partially or totally destroyed as a result of a disaster, the Department of Local Government Finance, upon petition, is required to make a survey of the area in which the property was destroyed and must order a reassessment of the destroyed property. See I.C. 6-1.1-4-11. The Department of Local Government Finance must specify in its order the time within which the reassessment must be completed and the date upon which the reassessment will become effective. See I.C. 6-1.1-4-11. Nevertheless, the reassessed value and the corresponding adjustment of the tax presently due, past due, or already paid is effective, as of the date the disaster occurred without penalty. See I.C. 6-1.1-4-11.

The petition for reassessment of destroyed property, the reassessment order, and the tax adjustment order must be made before December 31 of the year in which the taxes which would first be affected by the reassessment are payable. See I.C. 6-1.1-4-11(b).

Although a taxpayer recovers insurance proceeds for a property loss caused by a disaster, the taxpayer is not necessarily ineligible for the property tax relief provided to disaster victims. See State Board of Tax Commissioners v. Holthouse Realty Corp., 170 Ind. App. 232, 352 N.E.2d 535 (1976). Nevertheless, the benefits flowing from the statute apply only where a taxpayer has suffered a loss due to the disaster for which he has not otherwise been reimbursed. To the extent insurance proceeds reduce or eliminate a loss, the benefits derived from the statute will be correspondingly reduced or eliminated. 1971 Ind. O.A.G. 65. To constitute a disaster, more than one property owner must be affected.

The Department of Local Government Finance may also adopt a resolution declaring its belief that it is necessary to reassess all or a portion of the real property located in Indiana in order to maintain a just and equitable valuation of real property. See I.C. 6-1.1-4-9. If the Department of Local Government Finance adopts a reassessment resolution involving either a township or a larger area, the Department of Local Government Finance must hold a hearing concerning the necessity for the reassessment in the courthouse of the county in which the property is located. See I.C. 6-1.1-4-9. At least ten days before the hearing, notice must be given by publication, one time, in each of two newspapers of general circulation, which represent different political parties, and are published in the county in which the property to be assessed is located. See I.C. 6-1.1-4-10. If, however, two such newspapers are not published in the county, publication of notice in one newspaper of general circulation is sufficient.

After the hearing, or if the area involved is less than a township after the adoption of the Department of Local Government Finance’s resolution, the Department of Local Government Finance may adopt any reassessment it deems necessary. See I.C. 6-1.1-4-9. The order must specify the time within which the reassessment must be completed and the date the reassessment will become effective. See I.C. 6-1.1-4-9.

The Department of Local Government Finance is given its broadest review and assessment powers by I.C. 6-1.1-14-10 which allows the Department of Local Government Finance to review the assessment or reassessment of any tangible property and to reassess the property. The Department of Local Government Finance is to give notice which states the time, place, and object of the hearing on the assessment by mail to any taxpayer whose assessment is to be reviewed. The time set for the hearing must be at least ten days after the date on which the notice is mailed. See I.C. 6-1.1-14-11.

Furthermore, after the hearing, the Department of Local Government Finance must assess the property in question and mail a certified notice of its final determination to the appropriate county auditor and to the taxpayer. See I.C. 6-1.1-14-11.

The Department of Local Government Finance is required to mail the notice of the time, place, and object of a hearing upon reassessment for the benefit and protection of the taxpayer. The Indiana Supreme Court held that because failure to give such notice would not be inconsequential to the affected taxpayer, the requirement is mandatory and failure to give proper notice rendered the acts of the State Board of Tax Commissioners (now the Department of Local Government Finance) invalid. See Board of Commissioners of Marion County v. Western Electric Company, 198
Furthermore, the Indiana Court of Appeals has held that incorrect notice to taxpayers renders the acts of the State Board of Tax Commissioners (now the Department of Local Government Finance) invalid. See F.W. Woolworth Company v. State Board of Tax Commissioners, 369 N.E.2d 958 (Ind. App. 1977). The notice in Woolworth contained only the overall total of the increased valuation and a listing of specific values for 32 of the taxpayer's 45 store locations in Indiana. The Indiana Court of Appeals held that the increased assessments were effective only as to the 32 store locations listed in the notice. F.W. Woolworth Company v. State Board of Tax Commissioners, 369 N.E.2d 958 (Ind. App. 1977).

If an individual wishes to appeal a Department of Local Government Finance’s final determination regarding the assessment of tangible property, the taxpayer’s only appeal is to the Indiana Board of Tax Review. See I.C. 6-1.5-5-1. One exception to this requirement is a decision by the Department of Local Government Finance under I.C. 6-1.1-17 et seq., in which the department has the authority to revise, reduce, or increase a political subdivision's budget, tax rate, or tax levy, either on appeal or on its own initiative. See I.C. 6-1.1-17-16. A decision under I.C. 6-1.1-17 et seq. by the Department of Local Government Finance is discretionary and judicial review is available only for an abuse of discretion. See State Board v. Eakin, 444 N.E.2d 1197 (Ind. 1983). When an appeal has been filed, the proceeding becomes quasi-judicial. Consequently, the Department of Local Government Finance must permit all parties the right to submit evidence and cross-examine witnesses, and the Department of Local Government Finance must issue written findings. See Eakin, 444 N.E.2d 1197. The Indiana Board of Tax Review does not have the power to review determinations by the Department of Local Government Finance under I.C. 6-1.1-17. See I.C. 6-1.5-5-1. Therefore, judicial review by the Tax Court is available, but only for an abuse of discretion by the Department of Local Government Finance. See Eakin, 444 N.E.2d 1197.

The "agricultural advisory council" is established by I.C. 6-1.1-38 et seq., which provides that the council is to be composed of 11 members appointed by the Governor to serve one year terms. Six members constitute a quorum for the transaction of business; action may be taken by the council only by a majority vote of the members who are present. The agricultural advisory council is to elect a presiding officer and may prescribe the duties of such officer in its bylaws. See I.C. 6-1.1-38-6.

The agricultural advisory council is to meet two years before the commencement of each general reassessment and must additionally meet at the call of its presiding officer. See I.C. 6-1.1-38-5. Furthermore, the agricultural advisory council must hold hearings and meetings that it deems necessary to gather evidence concerning the valuation of land for property tax purposes on which it is then to advise the Department of Local Government Finance. See I.C. 6-1.1-38-7. However, the agricultural advisory council has only advisory responsibilities. The Department of Local Government Finance is to consider the opinions of the agricultural advisory council but is not bound by those opinions. See I.C. 6-1.1-38-8.

The following discussion includes some of the miscellaneous powers and duties conferred on the Department of Local Government Finance by the Indiana Code which are not covered elsewhere in this chapter. However, the discussion of powers and duties in this section and elsewhere in this paper does not fully enumerate the powers and duties conferred upon the Department of Local Government Finance.

The Department of Local Government Finance is required to see that the property taxes due the State of Indiana are collected and that the penalties relating to property taxes are enforced. See I.C. 6-1.1-30-14. The Department of Local Government Finance is also required to investigate the property tax laws and systems of other states and countries so it may recommend changes in the property tax laws to the Indiana General Assembly. See I.C. 6-1.1-30-14.

The Department of Local Government Finance is further required to interpret the property tax laws of the State of Indiana, instruct property tax officials about their taxation and assessment duties, and see that all property tax assessments are made in accordance with the law. See I.C. 6-1.1-35-1. In fulfilling its duty to instruct property tax officials, the Department of Local Government Finance is allowed to require local assessing officials and employees to attend instructional sessions held by the Department of Local Government Finance or held by others with approval of the Department of Local Government Finance. See I.C. 6-1.1-35-3. In monitoring the making of property tax assessments, at least one representative of the Department of Local Government Finance is to visit each county in the State of Indiana at least once a year. See I.C. 6-1.1-35-2. During the visit the representative of the Department of Local Government Finance must gather information respecting complaints with the operation of the property tax laws, ensure that the property tax officials are complying with the laws of Indiana, and see that persons who violate the laws set forth an Article 1.1 of Chapter 6 of the Indiana Code are being punished for those violations. See I.C. 6-1.1-35-2.

The Department of Local Government Finance is to conduct four regional training sessions held throughout Indiana in any year in which an assessing official or County Property Tax Assessment Board of Appeals’ member takes office for the first time. See I.C. 6-1.1-35-2-2. Furthermore, the Department of Local Government Finance must
conduct four continuing education sessions at regional locations, for all assessing officials and County Property Tax Assessment Board of Appeals’ members each year. See I.C. 6-1.1-35.2-3.

In the assessment of personal property, a conflict often arises as to the proper place for assessment. If the conflict involves different townships which are located within the county, the county assessor is to determine the place of assessment. However, if the conflict involves different counties, the Department of Local Government Finance is to determine the proper place of assessment. See I.C. 6-1.1-3-4.

The property tax laws of Indiana provide numerous exemptions from the imposition of property tax. The county auditor of each county is to receive exemption applications, and on or before August 1 of each year forward the duplicate copies of all approved exemption applications to the Department of Local Government Finance. The Department of Local Government Finance is then required to review the approved applications and may deny an exemption if it finds that the property is not tax exempt under the laws of Indiana. However, before denying an exemption, the Department of Local Government Finance must give notice to the applicant and hold a hearing on the exemption application. See I.C. 6-1.1-11-8.

The Department of Local Government Finance also has a duty on or before March 1 of each year to certify to the Indiana Department of Revenue, on a form approved by the State Board of Accounts, an estimate of the total county tax levy collectible in that calendar year in each county in the State of Indiana. The estimate must be based on the tax collections for the preceding calendar year, adjusted as necessary to reflect the total county tax levy from the budgets, tax levies and rates as finally determined and acted upon by the Department of Local Government Finance. In this same report the Department of Local Government Finance must also certify the amount of homestead credits which are allowed by the county for the particular calendar year. If there are one or more taxing districts in the county that contain all or part of an economic development district that meets certain requirements, the Department of Local Government Finance must estimate an additional distribution for the county in the same certified report sent to the Indiana Department of Revenue. See I.C. 6-1.1-21-3.

During each year in which a general assessment of real property becomes effective, the Department of Local Government Finance is required to compute a new assessment ratio for each school corporation and a new state average assessment ratio. In all other years, the Department of Local Government Finance may compute a new assessment ratio for a school corporation and a new state average assessment ratio, if the Department of Local Government Finance finds that there has been sufficient reassessment of one or more classes of property in the school district. When the Department of Local Government Finance computes a new assessment ratio for a school corporation, the Department of Local Government Finance must publish the new ratio. See I.C. 6-1.1-34-1.

A school corporation's assessment ratio for a particular year is to equal the total assessed valuation of the property within the school district divided by the total true cash value which the Department of Local Government Finance determines would result if the property within the school district was valued in the manner provided by law of the State of Indiana. See I.C. 6-1.1-34-2. In order to compute the assessment ratio for a school corporation, the Department of Local Government Finance must first take a random sampling of the assessed values and true cash values of residential, farm, commercial and industrial real and personal property. See I.C. 6-1.1-34-4. The Department of Local Government Finance must also weight the ratio to reflect the relative importance of each class of property within the school district. Before calculating a school corporation's assessment ratio, the Department of Local Government Finance is to discuss the weight to be given to each class of property with residents of the school district and elected officials, or other individuals who are familiar with the economic base of the school district. See I.C. 6-1.1-34-5.

After the Department of Local Government Finance calculates a new assessment ratio for a school corporation and before publishing the new ratio, the Department of Local Government Finance must send a notice of the new assessment ratio to the county auditor, the county assessor, and the governing body of the school corporation. The Department of Local Government Finance must send these notices before March 2 of each year in which the Department of Local Government Finance calculates a new assessment ratio for a school corporation. Within thirty days after notification of a new assessment ratio, the county auditor, the county assessor, or the governing body of the school corporation may examine and verify the Department of Local Government Finance’s data and make suggestions concerning the values established Department of Local Government Finance. See I.C. 6-1.1-34-6.

Each year in which the Department of Local Government Finance computes a new assessment ratio for a school corporation, the Department of Local Government Finance must also compute a new adjustment factor for the school corporation. The Department of Local Government Finance must notify the school corporation of its new adjustment factor before March 2 of the year in which the Department of Local Government Finance calculates the new adjustment factor. See I.C. 6-1.1-34-7.

The state average assessment ratio for a particular year is to equal the sum of the assessed valuation of the property within all the school corporations of the State of Indiana, divided by the sum of the true cash values which the
Department of Local Government Finance determines would result if the property within all the school corporations of Indiana were valued in the manner provided by law. See I.C. 6-1.1-34-3.

In determining the school assessment ratios and adjustment factors, the Department of Local Government Finance is required to conduct continuing studies of all property which is subject to assessment in the State of Indiana and the Department of Local Government Finance is allowed to: request access to all local and state official records; secure information from the federal government or from public or private agencies; inspect a person's books, records, or property if the item is relevant to information which the Department of Local Government Finance needs to implement this chapter; and, to adopt appropriate forms and procedures. See I.C. 6-1.1-34-9.

Indiana Code Chapter 6-1.1-17 et seq. gives the Department of Local Government Finance the power, subject to certain limitations and requirements contained in that chapter, to revise, reduce, or increase a political subdivision's budget, tax rate, or tax levy which the Department of Local Government Finance is required to review. See I.C. 6-1.1-17-16. The Department of Local Government Finance is required to review such budgets, tax rates, and tax levies of a political subdivision when a County Board of Tax Adjustment determines that the maximum aggregate tax rate permitted within a political subdivision is inadequate or exceeds the maximum aggregate tax rate prescribed. See I.C. 6-1.1-17-8 and 6-1.1-17-10. Furthermore, the Department of Local Government Finance may at any time, subject to certain limitations contained in I.C. 6-1.1-19 et seq. and I.C. 6-1.1-18.5 et seq., increase the tax rate and tax levy of a political subdivision in order to do the following: pay the principal or interest upon a funding, refunding, or judgment funding obligation of a political subdivision; pay the interest or principal upon an outstanding obligation of the political subdivision; pay a judgment rendered against the political subdivision; or to pay lease rentals that have become an obligation of the political subdivision. See I.C. 6-1.1-17-17. The Department of Local Government Finance also has responsibilities regarding the limitations on property tax rates and appropriations under I.C. 6-1.1-18 et seq.; limitations on civil government property tax levies under I.C. 6-1.1-18.5 et seq.; limitations on county welfare property tax levies under I.C. 6-1.1-18.6 et seq.; and limitations on public school corporation tax levies under I.C. 6-1.1-19 et seq.

In order to obtain information which is necessary to the Department of Local Government Finance’s conduct of a necessary or proper inquiry, the Department of Local Government Finance or a department special representative, has the power to subpoena and examine witnesses; administer oaths; and subpoena and examine books or papers in the hands of any person. See I.C. 6-1.1-30-13.

The Department of Local Government Finance has the power to cancel real property taxes in two specific instances. The Department of Local Government Finance may cancel any property taxes assessed against real property owned by a county, township, city, or town, if a petition requesting that the Department of Local Government Finance cancel the taxes is submitted by the auditor, assessor, and treasurer of the county in which the real property is located. See I.C. 6-1.1-36-7. The Department of Local Government Finance may also cancel any property taxes assessed against real property owned by the State of Indiana, if a petition requesting that the Department of Local Government Finance cancel the taxes is submitted by the Governor or the chief administrative officer of the state agency which supervises the real property, subject to the Governor's approval of the petition. See I.C. 6-1.1-36-7.

Unlike the assessment of other tangible property previously discussed, the Department of Local Government Finance by itself is required to assess the distributable property (defined at I.C. 6-1.1-8-5 through 6-1.1-8-18) each year, which as of the assessment date of that year, is owned or used by a public utility company. See I.C. 6-1.1-8-25. The Department of Local Government Finance must determine the assessed value of the distributable property based upon the percentage of true tax value, as it is required to do for tangible property owned by a county, township, city, or town. The Department of Local Government Finance is also required to equalize its assessments of distributable property in the same manner that it equalizes assessments of tangible property under I.C. 6-1.1-14. See I.C. 6-1.1-8-25. The Department of Local Government Finance is likewise empowered to promulgate rules and regulations to provide equal treatment for the public utility companies within each classification. See I.C. 6-1.1-8-42. The rules must be consistent with the statute and must carry out the statute’s intent. The rules and regulations may not prohibit the assessment and taxation of a public utility company's property which is subject to taxation, or prohibit the Department of Local Government Finance from making adjustments in those cases where the rules and regulations would result in an unfair assessment. See I.C. 6-1.1-8-42.

The Department of Local Government Finance is allowed to ask a public utility company to provide the Department of Local Government Finance with copies of any reports which the public utility company has filed with a state or federal agency, if the reports are related to the valuation, assessment, or taxation of the public utility company’s property and if the agency has either regulatory or taxing authority. If the Department of Local Government Finance makes such a request, the public utility company must provide the Department of Local Government Finance with copies of the reports. The Department of Local Government Finance may also inspect the original reports filed by the public utility company, regardless of whether or not the Department of Local Government Finance has obtained
copies of the reports from the public utility company. In addition, the Department of Local Government Finance may inspect a public utility's property, books, and records. See I.C. 6-1.1-8-21.

The Department of Local Government Finance must assess the property of a public utility company based upon the information available to the Department of Local Government Finance in the following instances: if the public utility company does not file a statement which is required under I.C. 6-1.1-8-19; if the public utility company does not permit the Department of Local Government Finance to examine the public utility company's property, books, or records; or if the public utility company does not comply with the summons issued by the Department of Local Government Finance. An assessment which is made by the Department of Local Government Finance, as described in this paragraph, is final, unless the public utility company establishes that the Department of Local Government Finance committed actual fraud in making the assessment. See I.C. 6-1.1-8-22. The Department of Local Government Finance is to remain informed about the methods which other states use to value public utility companies. See I.C. 6-1.1-8-41.

On or before June 1 of each year, the Department of Local Government Finance must determine the just value of the property of each public utility company. Except for railroad car companies, the Department of Local Government Finance must determine the just value by first determining the approximate unit value of each public utility company. The value of the distributable property of a public utility company, other than a railroad car company, equals the remainder of the unit value of the public utility company, minus the value of the public utility company's fixed property. The value of the distributable property of a railroad car company equals the value of all of the company's distributable property, multiplied by an adjustment factor. See I.C. 6-1.1-8-26.

In order to determine the unit value of a public utility company, the Department of Local Government Finance is allowed to consider the following: book value; costs of replacement or reproduction, less depreciation; costs of establishing and developing the business; amount and market or sales of outstanding securities; valuations determined by another governmental agency or indicated by a judicial decision, including but not limited to determinations made for rate-making purposes; statistics and reports prepared or filed by the public utility company; statistics and reports prepared by another governmental agency or by a private organization, if the organization is considered reliable by investors and investment dealers; earnings capitalized at a reasonable rate; and any other information which the Department of Local Government Finance considers relevant. See I.C. 6-1.1-8-26.

Each year, the Department of Local Government Finance is to notify each public utility company of the Department of Local Government Finance’s tentative assessment of the public utility company's distributable property and the value of the public utility company's distributable property used by the Department of Local Government Finance to determine the tentative assessment. This notice must be given to railroad car companies on or before September 1 and to all other public utility companies on or before June 1. See I.C. 6-1.1-8-28.

Within ten days after a public utility company receives notice of the Department of Local Government Finance’s tentative assessment, the public utility company may file objections to the tentative assessment and demand that the Department of Local Government Finance hold a hearing on the tentative assessment. If the public utility company does not file an objection to the tentative assessment within the time allowed, the tentative assessment is final and may not be appealed. See I.C. 6-1.1-8-28.

If a public utility files its objections to and demands a hearing on a tentative assessment within the time allowed, the Department of Local Government Finance must hold a hearing on the tentative assessment at a time and place fixed by the Department of Local Government Finance. After the hearing, if any, the Department of Local Government Finance must make a final assessment of the public utility company's distributable property and must notify the public utility company of the final assessment. See I.C. 6-1.1-8-29. However, the Department of Local Government Finance must give notice of the final assessment before September 30 in the case of railroad car companies and before June 30 in the case of all other public utility companies. See I.C. 6-1.1-8-29. As soon as the Department of Local Government Finance makes its final assessments of distributable property, the department must certify to the county assessor and the county auditor of each county the distributable property assessed values which the Department of Local Government Finance determines are distributable to the taxing districts of the county and the assessed values, according to the Department of Local Government Finance’s records, of fixed property located in the taxing districts of the county. In addition, if a public utility company has appealed the Department of Local Government Finance’s final assessment of the public utility company's distributable property, the board must notify the county auditor of the appeal. See I.C. 6-1.1-8-27.

The annual assessments of a public utility company’s property are presumed to include all the public utility company’s property which is subject to taxation. However, this presumption does not preclude the subsequent assessment of a specific item of tangible property which is clearly shown to have been omitted from the assessments for that year. The appropriate township assessor must make assessments of omitted fixed property. The Department of Local Government Finance must make assessments of omitted distributable property. However, the Department of
Local Government Finance may not assess omitted distributable property after the expiration of ten years from the last day of the year in which the assessment should have been made. See I.C. 6-1.1-8-39.

When the Department of Local Government Finance assesses distributable property which was omitted from the assessment for a particular year the Department of Local Government Finance, as nearly as possible, is to assess the omitted distributable property in the same manner that the Department of Local Government Finance assesses other distributable property. The taxes due on the omitted distributable property must be calculated by using the same tax rates which were applicable for the tax year that the distributable property was omitted from the assessment. The public utility company must pay interest on the taxes due on the omitted distributable property at the rate of 2 percent per month or fraction of a month. The interest due is to be computed based on the period of time beginning with January 1 of the year following the year in which the property was omitted from the assessment and ending with the date the taxes are paid. However, the Department of Local Government Finance may waive any portion of the interest due at the time the Department of Local Government Finance makes its final assessment of the omitted distributable property. See I.C. 6-1.1-8-40.

If a public utility company files objections to the Department of Local Government Finance’s tentative assessment of the public utility company's distributable property in the manner previously discussed, the public utility company may appeal the Department of Local Government Finance’s final assessment. The appeal must be made to the Indiana Board of Tax Review not more than forty-five days after the department gives the public utility notice of the final determination. The public utility may petition for judicial review of the Indiana Board of Tax Review's final determination to the Tax Court under I.C. 4-21.5-5 et seq. The appeal to the Tax Court must be commenced by filing a verified petition for judicial review; and mailing a notice and instructions to the county auditor, of each county in which the property’s distributable property is located, within forty-five days after the date of notice of the Indiana Board of Tax Review’s final determination. See I.C. 6-1.1-8-30.

When a public utility company initiates an appeal, the Tax Court may set aside the Indiana Board of Tax Review’s final assessment and refer the matter back to the Department of Local Government Finance with instructions to make another assessment. The public utility company must show that the Department of Local Government Finance’s final assessment, the department’s apportionment and distribution of the final assessment, or the Indiana Board of Tax Review’s final determination is clearly incorrect because the Department of Local Government Finance or the Indiana Board of Tax Review violated the law or committed fraud; or that the department’s final assessment is not supported by substantial evidence. See I.C. 6-1.1-8-32. The Indiana Court of Appeals has held that it is not the function of the court to determine the valuation of utility property; thus, where the State Board of Tax Commissioners (now the Department of Local Government Finance) has taken a capricious action, the proper remedy is a court order of a new assessment. See State Board of Tax Commissioners v. Chicago, Milwaukee, St. Paul and Pacific Railroad Company, 121 Ind. App. 302, 96 N.E.2d 279 (1951).

A public utility must pay any taxes which are based upon the Department of Local Government Finance’s assessment of distributable property regardless of whether an appeal of the assessment is pending. However, the collection of the taxes may be enjoined pending an original tax appeal under I.C. 33-3-5 et seq. The Department of Local Government Finance must reassess distributable property and certify the reassessment to the county auditor of each county in which the property is taxable if: (1) the Indiana Board of Tax Review sets aside the department's original assessment and orders a reassessment; or (2) the Indiana Board of Tax Review refers the matter to the department under I.C. 6-1.1-8-32 with instructions to make another assessment. However, this requirement does not apply if the Indiana Board of Tax Review’s decision is appealed to the Tax Court; or the Tax Court's order for reassessment under I.C. 6-1.1-8-32 is appealed to the Indiana Supreme Court. If the Tax Court sets aside the Indiana Board of Tax Review’s final determination and the Indiana Board of Tax Review reassesses distributable property, the Indiana Board of Tax Review must certify the reassessment to the county auditor of each county in which the property is taxable if the decision of the Tax Court is not appealed to the Indiana Supreme Court. See I.C. 6-1.1-8-36.

As discussed below, all original tax appeals from final determinations of the Indiana Board of Tax Review must be appealed to the Indiana Tax Court. See I.C. 33-3-5-2. The scope of the proceeding and the law governing the proceeding will remain the same as appeals presently taken to the trial courts of the State of Indiana. See I.C. 33-3-5-14.

If the Department of Local Government Finance or Indiana Board of Tax Review’s reassessment of distributable property is less than the Department of Local Government Finance’s original assessment, the auditor of
each affected county must compute the tax refund, if any, which is due the public utility company. The county auditor must then issue a warrant to the public utility company for the amount of the refund due, and the county treasurer is to pay the warrant, without an appropriation for disbursement. If Department of Local Government Finance or Indiana Board of Tax Review’s reassessment of distributable property is greater than the Department of Local Government Finance’s original assessment, the auditor of each affected county must enter the difference as an assessment of omitted property. The county auditor must compute and the county treasurer must collect the additional tax due in the same manner that taxes on omitted property are computed and collected. The county officials, however, may not charge a penalty or interest on the additional tax due, unless the public utility company does not pay the additional tax within thirty days after the date the public utility company is given notice that the additional tax is due. See I.C. 6-1.1-8-37.