

Trustees' Division of the
Township Officials of Illinois

Trustees' Operations Manual

By: Steven W. Stanger

Steven W. Stanger & Associates, Inc. Baileys Harbor, Wisconsin

© 2009 Trustees' Division of the Township Officials of Illinois

All rights reserved.

Printed in the United States of America

Published by the Trustees' Division of the Township Officials of Illinois
% Township Officials of Illinois
3217 Northfield Drive
Springfield, Illinois 62702
866-897-4688



FOREWORD

This 2009 (second) edition of the Trustees' operation manual updates the manual first published in 2005. Once again, Steven W. Stanger, Steven W. Stanger & Associates, Inc., with input from the Advisory Committee, has published this manual to help township trustees perform their duties better. We hope that you find this book to be a valuable resource. This book is intended to be a concise source of information. Therefore, it is not comprehensive nor is it intended to replace the statutes or the need for professional advice. Each township trustee should read this manual and keep it close at hand as a reference tool. Please note that while we strive to present accurate information, at times laws change or typographical errors occur. Additional copies may be purchased through Township Officials of Illinois. If you have a copy of the 2005 edition, you should clearly identify it or destroy it to eliminate any confusion.

Ann Dynako Kubiczky
Advisory Committee Chair

ACKNOWLEDGMENTS

The Board of Directors of the Trustees' Division gratefully acknowledges the services and support of the following individuals:

Steven W. Stanger, Steven W. Stanger & Associates, Inc., for his excellent writing and consulting services.

Advisory Committee members:

Jerry B. Crabtree - Associate Director & Education Coordinator, Township Officials of Illinois.

Charles M. Foley - Trustee, Venice Township, Madison County.

Mary E. Hamilton - Trustee, Aetna Township, Logan County.

Eugene L. Jacoby - Trustee, Coloma Township, Whiteside County.

Ann Dynako Kubiczky, Chair - Trustee, Riverside Township, Cook County.

Glenn Loyet - Trustee, O'Fallon Township, St. Clair County.

Robert F. Wisniewski - Trustee, Joliet Township, Will County.

The Board of Directors also thanks:

Walter Kazmierczak, Trustee, Maine Township, Cook County, and

Joanne Schultz, Trustee, Wheeling Township, Cook County, for their review and comment.

Township Officials of Illinois – Bryan E. Smith, Executive Director.

Township Officials of Illinois Risk Management Association –

Rod Beck, Executive Director.

ABOUT THE AUTHOR

Steven W. Stanger has over 29 years of experience in township government having first been elected West Deerfield Township Assessor in 1985. He has been the president of the Illinois Assessor's Association, a member of the board of directors of the Township Officials of Illinois (TOI), and a member of the Property Tax Advisory Committee chaired by the Illinois Department of Revenue.

For more than 18 years, Steve has been involved in continuing education for township officials as an education consultant for TOI and as a course developer/instructor for the Illinois Property Assessment Institute. Additionally, he was instrumental in formulating TOI Voluntary Mediation, a program designed to facilitate dispute resolution. Most recently, Steve was responsible for planning and developing the educational sessions for the 2005 North Central Regional Association of Assessing Officers' annual conference hosted by Illinois in Moline.

Steve has a B.A. degree from Illinois State University in French and Russian with a minor in secondary education and an M.B.A degree from DePaul University in international business. He retired from being West Deerfield Township Assessor in Lake County and now lives in Baileys Harbor, Door County, Wisconsin where he continues to teach, write, and consult for the Illinois and Indiana assessment communities.

TABLE OF CONTENTS

Foreword	iii
Acknowledgments	iv
About the Author	v
PREFACE	1
A. Statement of purpose	1
B. Organizational overview	1
C. Statutory references	2
INTRODUCTION	3
A. Township facts	3
B. The township trustee	6
Term of office	6
What it means to be a trustee	6
Administrative functions	6
Responsibility to the community	6
Governance vs. management	7
The importance of your vote as a trustee	8
Which township officials have the right to vote?	9
C. Relationships with other township officials	9
Supervisor	9
Clerk	11
Assessor	12
Highway commissioner	13
Collector	14
D. How the property tax works	14
I. MONTHLY DUTIES	18
A. Auditing bills	18
Audit frequency	19
Audit process	20
Final certification	22
B. Transferring funds	23
Trustees' role	24
Key definitions	24
Transferring monies within funds	25
Transferring monies between funds	25
Transferring funds in the road district	26
Transferring interest between funds	26

II. YEARLY MANDATES	27
A. Budgetary process	27
Introduction	27
Purpose of the Illinois Municipal Budget Law	27
Trustees' role	28
Timing	31
Timeline	31
Budgetary process	33
Capital funds	35
Changing the budget	36
Excessive fund balances	36
Effects of non-compliance with Municipal Budget Law	37
B. Preparing the levy	38
Purpose of the levy	38
Trustees' role	39
Timing	39
Process overview	39
Truth in Taxation Law	41
Requirements	41
Intent of the law	41
Key definitions	42
Determining the need for compliance	43
Property Tax Extension Limitation Law (PTELL)	46
What limitations are placed on townships?	46
Sources of revenue beyond the limitation	46
C. Township audits	47
Trustees' role	47
When are audits required?	48
Supervisor's annual accounting to the board	49
The Annual Financial Report (AFR)	49
D. Annual town meeting	50
Timing	50
Participants	51
Meeting notice	51
The agenda	51
Meeting place	52
Powers of the electors	52
E. Special meetings	53
F. Statement of Economic Interest	54
G. Prevailing Wage Act	54

III. GENERAL RESPONSIBILITIES	56
A. Taxing authority	56
Dillon’s Rule	57
B. Important laws and acts	57
Open Meetings Act	57
Freedom of Information Act	66
Ethics/Gift Ban Act	69
Open Space Act	70
Cemetery Act	71
General Assistance	72
Illinois Local Records Act	73
Local Government Professional Services Selection Act	74
Public Officer Simultaneous Tenure Act	75
Time Off for Official Meetings Act	76
C. Letting Contracts	77
Corporate powers	77
Contracting with township officials	77
Township services	77
Trustees’ role	78
D. Bidding requirements	79
E. Retention of professionals	80
Township attorney	80
Evaluation process	81
F. Liability insurance	82
Trustees’ role	83
TOIRMA	83
G. Selecting depositories	84
Trustees’ role	84
Types of institutions in which township funds may be placed	84
Process initiation	85
Reporting requirements for financial institutions	85
Financial interests	85
H. Surplus property	86
Property – value \$2,500 or less	86
Property – value more than \$2,500	87
Trade-ins	87
Property donations	87
I. Filling vacancies	89

J. Advisory referenda	90
K. Personnel policy manuals	90
L. Setting salaries	91
M. Oath of office	92
N. Membership on other committees	92
IV. BEST PRACTICES	93
A. Budget philosophy	93
B. Conducting effective meetings	93
Trustees' role	94
General aspects of effective meetings	95
Specific elements of successful meetings	96
Tips on conducting effective meetings	97
Parliamentary procedures	98
C. Intergovernmental agreements	100
D. TOI Voluntary Mediation	100
E. Membership in other professional organizations	101
F. Handling litigation	101
G. Nepotism	103
H. Managing personnel – hiring and firing by the Board of Trustees	103
I. Criminal sanctions	105

Preface

A. Statement of purpose

The purpose of this Trustees' Operations Manual is to inform, guide and offer sound advice to aid trustees in carrying out their principal statutory and fiscal responsibilities for the township's constituency.

The manual should not be viewed as a substitute for the *Illinois Compiled Statutes* or a summary of all duties trustees may be required to perform. Rather, it should be used as a reference to facilitate implementation of statutory requirements, refresh infrequently used procedures and suggest best practices.

Throughout this manual, citations from the Illinois Compiled Statutes have been provided. Trustees are strongly encouraged to consult those references whenever possible in order to fully comprehend all aspects and requirements of the law regarding the topic of interest.

As with any reference material, the manual should not be used in isolation. It is best used in combination with other materials, professional advice, one's best judgment and the constituency's best interest so as to realize outcomes that best serve public interests.

Reference material should never replace the professional counsel of an attorney familiar with township law. It is highly advisable to inform your attorney about issues affecting the township as they surface, before they escalate into serious problems.

B. Organizational overview

The various topics, duties and responsibilities compiled for the manual have been categorized into one of four chapters for ease of reference. The four chapters are (I) Monthly Duties, outlining functions that are likely encountered at monthly meetings of the Board of Trustees, (II) Yearly Mandates, describing duties that require action on an annual basis, (III) General Responsibilities, highlighting related laws and acts that affect trustees and related business functions of conducting township government's activities,

and (IV) Best Practices, a section of statements expressing a purpose, desirable outcomes, and/or ideals for improving and enhancing the image of local government.



This icon indicates that additional information, forms and templates are available at the Township Officials of Illinois website in a downloadable format. Visit www.toi.org – At the home page click on the “Download Center.”

C. Statutory references

A statutory citation should contain a reference to the chapter (Chapter 60), act (Act 1) and section number (Section 70-30) of the statutory provision. There are three ways to cite any of the sections in the *Illinois Compiled Statutes*. Section 70-30 of the *Township Code* may be cited as follows:

- Section 70-30 of the *Township Code*.
- 60 ILCS 1/70-30.
- Section 70-30 of the *Township Code* (60 ILCS 1/70-30).

During a four-year term of office, trustees may encounter many aspects of Illinois law. The following three chapters of the *Illinois Compiled Statutes* have particular relevance for township trustees.

The *Property Tax Code* – Chapter 35

The *Township Code* - Chapter 60

The *Highway Code* – Chapter 605

Dillon’s Rule - Townships and other units of local government are regulated by the provisions found in Article VII, Sec. 8 of the 1970 Illinois Constitution which states in part that these governments “shall have only powers granted by law.”

This means that if there is no statute permitting a township or road district (official) to perform a function or service, the official or unit of government may not carry out that function regardless of how much it is needed or wanted by taxpayers. If the statutes are silent (do not mention) regarding a particular power or function, it does not exist. If the power doesn’t exist, the government or official may not perform the service.

Introduction

A. Township facts

The Past

1784

Arising from a belief that all new territories should be self-governing and eventually admitted into the union, Thomas Jefferson authored the “Northwest Territories Ordinance” as a way of dealing with new lands in an expanding union.

1785

Congress began surveying the new territories including the land in the Northwest Territories, using a system called the Public Land Survey System.

Out of this surveying project came the Land Act of 1796 and the geographic townships as we know them today.

1787

The Northwest Ordinance is passed allowing people to be involved in governing their territory.

1818

Illinois and its townships are admitted into the union.

1848

Constitution allows counties to vote on forming townships.

1849

The first counties vote on whether to form township government.

1850

The first township is formed and officials elected.

1874

Township Law written and adopted.

1970

Illinois Constitutional Convention put in place the current Constitution under which townships exist today.

1994

Public Act 88-62 enacted to codify the law in relation to townships. The *Township Code* replaces the *Township Law* of 1874.

The Present

Illinois has 1,432 townships in 85 counties. Referred to as “grassroots government,” townships formed the basic foundation of the new government Jefferson envisioned for the territories and the union of states. Township officials today continue to take great pride in their basic form of government because they:

Conduct their activities in a less intimidating manner than that of their counterparts in county, state or federal government.

Are considered part of the community.

83% of the 1,432 townships have a population of less than 5,000 and 43% have less than 1,000 residents.

Administer programs directly impacting the quality of life locally.

Provide efficient, high levels of service finding innovative and low cost ways to solve problems.

53 percent of the roads and 46 percent of the bridges in Illinois are maintained by township road districts.

The Future

Increasingly, townships in Illinois are under intense scrutiny by electors and the press, oftentimes culminating in recommendations that townships should be abolished. Township officials must heed the warning signs, objectively analyze their weaknesses and turn perceived problems into strengths by:

Embracing change when it's for the better.

Keeping an open mind to new ways of thinking.

Seeking new opportunities and new solutions to old problems and tasks.

Developing new partnerships with other townships, communities, and social agencies.

Developing intergovernmental agreements to share scarce resources and lower costs.

Attending educational programs to increase professionalism.

Working tirelessly to educate other elected officials and the electorate that township government continues to serve a purpose in today's society.

Leaving politics and personal agendas at the door.

Listening to and working with the constituency to improve the community.

Making a difference!

B. The township trustee

Term of office

Trustees begin serving their terms on the third Monday of May following the election for a four-year period.

60 ILCS 1/50-40

What it means to be a trustee

Holding public office means holding the public trust. Trustees are elected to represent the general public and to govern the programs and services affecting the quality of life of township residents.

Trustees also have been entrusted with a vital fiscal responsibility to determine, allocate, and oversee the expenditure of public funds in the township. Their goal should be to provide superior services and benefits while minimizing costs.

Administrative functions

The Board of Trustees carries out orders listed in the Illinois statutes or requested by their constituency during the annual meeting (See Section II. D.), or a special meeting. In addition, the township board is the legislative arm of the township, providing a strategic direction for carrying out policies and programs.

Responsibility to the community

In a democracy, effective political power remains with, and rightfully belongs to, the people. However, the right to make political decisions is exercised by citizens through elected representatives.

Township trustees have five important roles to fulfill for their constituency. Trustees must be (1) *decision makers* to determine the strategic direction of the township, (2) *fiduciary stewards* to ensure constituents' resources are being responsibly allocated and managed, (3) *ombudsmen* for friends

and neighbors as they deal with all levels of government and its institutions, (4) *educators* who learn the issues affecting their jurisdiction, respond to needs and inform residents about their decisions and the reasons behind them, and (5) *motivators* who consistently seek public involvement and participation in township government and the community.

Governance vs. management

Governance - Focuses on functions that provide the essential direction, strategic planning, resource allocation, structure and oversight authority to meet specific needs of the township and its constituents. These functions include:

Strategic direction – Focusing township programs and services on meeting the expressed needs of the community.

Resource development – Finding the financial resources to carry out and support the township’s strategic plan.

Financial accountability – Conducting resource management that guarantees honesty, cost-effectiveness and fiscal responsibility when handling taxpayer dollars.

Management – Focuses on functions that provide the implementation of programs that accomplish the goals of the township’s strategic plan. These functions include:

Program planning – Involves taking the strategic direction and determining the details that allow the goals to become reality.

Administration – Ensures effective management of the processes behind the programs.

Lines of authority

GOVERNANCE

Board of Trustees



The role of the board stems from the idea that management should operate the core business, but it needs oversight to make sure shareholders' interests are maintained.

Elizabeth Bailey: Chair,
Wharton Public Policy Department
University of Pennsylvania

MANAGEMENT

Supervisor



Assessor



Highway
Commissioner



Clerk



***Note:** Examples of trustees' staff include: a secretary to the board, township receptionist or township maintenance person.

The importance of your vote as trustee

One person, one vote is a basic tenet of democracy. As important as this concept is, a trustee's vote is perhaps even more important for that single vote represents the voice and will of hundreds or even thousands of people.

A trustee must not take the power of his/her vote for granted nor underestimate its consequences as it can:

Change someone's life.

Provide new opportunities.

Affect the quality of life in the community.

Save a life.

Offer hope.

Avert disaster.

Solve problems in the community.

Which township officials have the right to vote?

Trustees	Yes
Supervisor	Yes
Clerk	No, except in the case of a tie vote to fill a vacancy of any township officer; then the clerk shall be entitled to cast a vote. See also Section III, I.
Assessor	No
Highway commissioner	No
Collector	No



C. Relationships with other township officials

Trustees are part of the township team. While the statutes provide specified duties for each elected township officer as summarized below, no one official operates in a vacuum. Democracy’s system of “checks and balances” and Illinois laws require township officials to directly interact with one another when conducting the township’s business. Understanding the responsibilities of all township officials gives trustees a vital perspective as they carry out their duties.

- 1. Supervisor** - The township supervisor serves as the chief executive officer of the township managing the financial and day-to-day activities of that office.

Supervisors enter upon their duties on the third Monday in May following their election. **60 ILCS 1/50-15**

Major duties include:

Chair of the Board of Trustees. **60 ILCS 1/80-5**

Votes on all legislative decisions. **60 ILCS 1/80-5**

Prepares an annual budget with the Board of Trustees. **50 ILCS 330/3**

Furnishes the following financial reports.

Annual accounting to the board. **60 ILCS 1/70-30**



Annual Treasurer's Report

30 ILCS 15/1 to 15/6



Annual Financial Report to State Comptroller.

35 ILCS 200/30-30

Statement of Financial Affairs. **60 ILCS 1/70-15**

Supervises and prepares budgets for the General Assistance program. **60 ILCS 1/70-50**

Prepares the General Assistance budget.

Treasurer of all township funds. **60 ILCS 1/70-25**

Supervisor presents bills. **60 ILCS 1/70-35**

Acts as the *ex officio* treasurer of the road district. **60 ILCS 1/70-60**

Trustees' primary duties relative to the supervisor

Refer to 60 ILCS 1/70-5 to 1/70-60

Review all monthly bills submitted by the supervisor.

Set the salary of the supervisor 180 days prior to the term.

60 ILCS 1/65-5

(See Chapter III, General Responsibilities, Section L.)

Prepare and approve the budget for the township.

Determine and approve the levy for the township.

Approve the General Assistance budget.

Audit all bills.

Review all financial reports.

Note: See Monthly Duties and Yearly Mandates chapters for a complete description of specific duties trustees have relative to the supervisor.

2. Clerk – As the name indicates, the township clerk is the “clerk” of the township, the Board of Trustees, and of all township meetings. Major duties include:

Clerk of the Board of Trustees. **60 ILCS 1/80-45**

Chief record keeper. **60 ILCS 1/75-5**

Local township election authority.

Ex officio clerk of the road district. **60 ILCS 1/75-40**

Administers oaths of office to township officials.
60 ILCS 1/75-5

Maintains board meeting minutes.
60 ILCS 1/75-10

Maintains records of closed sessions.
5 ILCS 120/2.06

Trustees’ primary duties relative to the clerk

Set the salary of the clerk 180 days prior to the term.
60 ILCS 1/65-5
(See Chapter III, General Responsibilities, Section L)

Authorize the appointment of a deputy clerk, with the consent and approval of the township board. **60 ILCS 1/75-45**

- 3. Assessor** – The township assessor is responsible for discovering, listing and determining the market value of most property within the township and assessing property at the statutory percentage of market value.

Assessors enter upon their duties of January 1 following their election. **35 ILCS 200/2-45**

Note: Some exceptions exist in certain counties to this general description of duties for a township assessor such as commission counties where assessments are done by county assessment officials.

The assessed value is used to apportion the tax burden created by taxing authorities such as school districts, municipalities, townships, etc. Major duties include:

Valuing and assessing real property. **35 ILCS 200/1**

Determining eligibility for certain preferential assessments.

Defending assessment appeals.

Formulating a budget to support the assessment process.

Educating the public on property tax issues.

Trustees' primary duties relative to the assessor

Set the salary of the assessor 180 days prior to the term.

35 ILCS 200/2-70

(See Chapter III, General Responsibilities, Section L)

Receive, amend as necessary, and approve the budget for the township assessor.

35 ILCS 200/2-30

Provide the office and storage space, equipment, office supplies and other items as are necessary for the efficient operation of the office.

35 ILCS 200/2-80

See also: **35 ILCS 200/2-20 Township and Multi-township Boards of Trustees; Elected Assessor** and **35 ILCS 200/2-30 Budget Making**.

4. Highway commissioner – The township highway commissioner is responsible for the construction and maintenance of the district’s roads and bridges as well as the day-to-day administration of the road district and all other infrastructure.

The highway commissioner enters upon his/her duties the third Monday in May following election.

605 ILCS 5/6-116

Major duties include managing and maintaining:

District roads. **605 ILCS 5/6-201.8**

Guide and direction signs. **605 ILCS 5/6-201.11**

Lighting of roads. **605 ILCS 5/6-201.12**

Construction of curbs and sidewalks. **605 ILCS 5/6-201.14**

Traffic control devices and signs. **605 ILCS 5/6-201.16**

In addition to maintaining the infrastructure of the road district, the highway commissioner is responsible for:

Formulating a budget for the office. **605 ILCS 5/6-501**

Preparing a levy to support the office. **605 ILCS 5/6-201.1**

And may borrow money to purchase or lease equipment.
605 ILCS 5/6-107.1

Trustees’ primary duties relative to the highway commissioner

Refer to 60 ILCS 1/73-5

Set the commissioner’s salary 180 days prior to the term.

60 ILCS 1/65-5

(See Chapter III, General Responsibilities, Section L)

Receive, amend as necessary, and approve the budget for the road district.

Receive a report from the highway commissioner within 30 days of the annual township meeting showing the inventory of equipment with a value over \$200 and a statement of all outstanding bills.

Audit all highway bills before they are paid by the treasurer to ascertain that they are in compliance with budget constraints.

- 5. Collector** – Township tax collectors exist in five Illinois Counties: Cook, Madison, Peoria, Sangamon and Will. Township tax collectors are most active in Peoria and Will Counties. In Peoria County, township tax collectors collect a majority of the real estate taxes prior to September 1, while in Sangamon County township tax collectors collect approximately 80 percent of the real estate taxes.

The collectors shall enter upon their duties on January 1 next following their election. **60 ILCS 1/50-15**

Trustees’ primary duties relative to the collector

Set the collector’s salary 180 days prior to the term. **60 ILCS 1/65-20**

Formulate a budget for the office of collector.

Appoint a new collector if the office becomes vacant. **35 ILCS 200/19-20**

D. How the property tax works, briefly

The Illinois property tax system, while not difficult to understand, is complex. It remains mystifying to property owners because of the large numbers of officials and agencies involved in various aspects of the cycle.

The property tax differs significantly from the consumption taxes, such as those on cigarettes, liquor, gasoline, food, and the income tax. It is an *ad valorem* tax meaning it is based on the value of an asset, real estate, and not on consumption levels or one’s earning potential.

Two major activities comprise the Illinois property tax system:

1. Determination of the amount of money needed to fund local government programs and,
2. Apportionment of that tax burden to all property owners.

The boards of the various taxing authorities, townships included, are responsible for determining the amount of money they need to operate and which must be raised from the property tax. This is the levy.

Assessors are responsible for the apportionment of that tax burden which is done through the valuation placed on each property. The theory is that the most expensive property will pay the highest tax bill.

Once these two functions come together, the system becomes more complex because of the interrelation of three factors, the assessment, the levy and their effect on the tax rate. Here's how it works.

First, a little background information for perspective. Real estate valuation estimates for property tax purposes always lag behind the current market, a lag of 18 months from the assessment date and 28-30 months from the time taxpayers receive assessment change notices. Why?

Illinois law requires all assessment officials, from township assessors to the Illinois Department of Revenue, to determine the valuation of property as of January 1 of the tax year. So when taxpayers are notified of their valuation change in September or October, those values are already 9-10 months behind current market activity and trends.

Contributing further to valuation lags is the statutory requirement to use sales that occurred during the three years immediately preceding the January 1 assessment date. This works in the taxpayer's favor during increasing markets because assessments cannot catch up to the market, but against property owners in a down market. This multi-year requirement tends to smooth the effects of market swings thereby providing a modicum of stability to the assessment system.

Therefore, under this system, values for the 2009 tax year will be determined as of January 1, 2009 using sales from 2006, 2007 and 2008.

Suppose, *hypothetically*, after studying the sales from 2006 through 2008 that assessment officials need to apply a negative multiplier lowering the assessments on all property in the township. This occurs when assessments are higher, on average, than the sale prices. Will taxes follow suit? In all likelihood, the answer is no. Remember, the purpose of the assessment is to determine everyone's portion of the tax burden. Look at the assessment as your slice of the tax pie. Changing everyone's assessment using a multiplier, also known as an equalization factor, adjusts assessments to the appropriate level of market value (33.33%) but does not change your proportion of the burden, your slice of the pie.

Let's look at a simplified example to see how this works. Suppose there is only one taxable property, your house, and one taxing body, you pick the one whose services you want.

In year 1 the taxing body needs \$5,000 to provide you with their services. Since yours is the only property, your tax bill has to be \$5,000.

In year 2 the real estate market plunges and your property value falls by 30% (or pick any percentage you want) but the value is down significantly. What has happened is that the taxing body's entire assessment base has gone down by 30% but your proportion of that base has not changed. Your property still remains the only taxable property. At the same time values have fallen, the taxing body determines it needs \$6,000 (a 20% increase) to provide you with their services. What is your tax bill? It has to be \$6,000 because that is what the taxing body asked for from the property tax and you are the only taxpayer. Your taxes are up even though your assessment went down by a significant amount.

In year 3 the real estate market rebounds and values skyrocket by 40%. Your assessment notice indicates this trend and your valuation is up 40%. But the taxing body has found they only need \$5,000 to operate this year. What happens to your tax bill? Your tax bill will go down from \$6,000 to \$5,000 despite the fact that your assessment went up 40%. Again, your proportion of the taxes didn't change so the only action affecting your bill is the change in spending, in this case a 16.67% decline from the previous year's spending request.

Whether it's one property or 50,000 properties and 30 taxing bodies instead of one, nothing changes. As long as assessments increase or decrease in unison, the percentage doesn't matter, and your proportion of the tax burden does not change. The only thing that can change your bill, when all assessments have changed by the same percentage, is a change in the levy or spending.

Assessment officials may change assessments at different rates meaning, some areas of the township may go up and some may go down. This would be done when an assessor recognizes that certain sections or neighborhoods in the township are under-assessed and others are over-assessed. This type of reassessment effectively shifts the burden, changes the size of each taxpayer's slice of the pie, and causes taxes to increase and decrease at different rates throughout the township.

I. Monthly Duties

A. Auditing bills

60 ILCS 1/80-10 & 1/80-15

Introduction

Aside from involvement in the budget and levy process, a trustee's most important function is performing the monthly audit of the township's bills. Exemplary governance includes diligent oversight of the financial operations of the township.

Taxpayers expect and deserve stringent financial accounting of their tax dollars and spending within approved budget guidelines. By auditing township bills, trustees provide the mechanism for a fiscal "checks and balances" that eliminates misappropriation of funds, spending abuses and potential fraud.



Best practice - Several days prior to the township meeting, trustees should be provided copies of all bills to be audited and approved during the meeting. This will afford trustees sufficient time to review the bills and to prepare for meaningful discussion and input during the meeting.

Trustees' role

Trustees are to examine and audit the charges and bills submitted by the:

- clerk on behalf of the highway commissioner,
- supervisor on behalf of the township and other elected officials for all expenses necessarily incurred for the use and benefit of the township, and
- supervisor as supervisor of general assistance *before* payment is made, except as provided below.

In addition, trustees review the compensation of all township officers and other individuals for professional services provided and rendered to the township.

Note: No examination and audit of bills is required *before* payment of wages that are subject to the *Illinois Wage Payment and Collection Act* (employees, not elected officials), **820 ILCS 115/1**, general assistance payments to clients or obligations for Social Security taxes as required by the *Social Security Enabling Act*, **40 ILCS 5/21-101**.

Audit frequency

50 ILCS 505/1 through 505/9

The *Local Government Prompt Payment Act* requires the Board of Trustees to approve or disapprove a bill from a vendor:

- Within 30 days after the receipt of a bill, or
- Within 30 days after the date when the goods or services were received, whichever is later.

If a bill is disapproved, the vendor must be notified immediately by mail.

Any bill approved for payment must be paid within 30 days after the date of approval or an interest penalty of 1% must be paid for each month (or fraction thereof) that the bill remains unpaid.

Payment of wages of township employees shall be made at least once a month in accordance with the pay schedule established by the Board of Trustees. Payment must be made no later than 15 days after the pay period.

60 ILCS 1/80-50

Other participants and their duties

Clerk

Countersigns and keeps a complete record of all warrants (bills) issued by the highway commissioner.

Keeps a record of the bills approved by the Board of Trustees in the minutes of the meeting.

Keeps the record, books, receipts, bills, etc. of the township, except for active general assistance cases which the supervisor maintains.

Supervisor

Manages the financial and day-to-day activities of the township as the designated Chief Executive Officer.

Is the only person authorized by statute to sign checks on behalf of the township.

Receives bills of the township and warrants from the clerk of the road district and presents them periodically to the board.

60 ILCS 1/70-35

Prepares, or has prepared, checks to pay the bills and makes disbursements upon board approval.

Maintains a record of cancelled checks, bill payment, and monthly expenditures vs. budgeted amounts for audit purposes.

Approves and makes payments for general assistance to clients.

Assessor

Submits bills and receipts verifying expenditures to the supervisor on a monthly basis for board approval and payment.

Audit process

Township charges – general – the following shall be considered appropriate instances for which township funds may be expended:

60 ILCS 1/80-35

Compensation for township officials for services rendered their respective townships.

Necessary expenses for the use and benefit of the township.

Funds authorized to be raised by the vote of a township meeting for any township purpose.

Every sum directed by law to be raised for any township purpose.

How to audit a bill – Approve a bill only if you can **answer yes** to all of the following questions:

1. *Is the bill a valid township expense?* Expect and demand receipts or affidavits for proof of expenditure.
2. *Were the materials or services received?* Don't be afraid to ask this question of any township official.
3. *If the bill is more than \$20,000, was the contract bid?*
60 ILCS 1/85-30
605 ILCS 5/6-201.7
4. *Is the bill computed correctly by the vendor? Does the check match the billing amount?*
5. *Is there a line item authorization in the budget enabling the bill to be paid?*

**Remember! If it isn't appropriated,
it can't be spent.**

6. *Is there sufficient balance left in the appropriate fund and in the budget line item to pay the bill?*
7. *Is there money to pay the bill in the bank accounts?*



Best practice - The township supervisor should provide the board with two reports every month: a fund balances report that shows the money remaining in each township fund and a report comparing budgeted expenditures to actual expenditures year-to-date and on a monthly basis.

When bills can be rejected – a board may only refuse to pay an incurred expense by a township official if:

Insufficient funds are available in the township's bank accounts.

Insufficient funds remain in the appropriate line item.

The expense has not been budgeted.

The expense is for an item, program, or purpose that is not a legally designated township expense.



Best practice – As long as an approved budget and appropriation ordinance is in place with sufficient funds remaining in the appropriate line item and in the bank and it is a legal expenditure, trustees **must** approve expenditures made by township officials even if they disagree with how the funds have been spent.

Final certification

Bills can be certified (approved) individually or as a group by the Board of Trustees, as long as a motion is made and approved by the township board.

Each individual bill or a list of bills must be signed by each trustee present if approving the expenditures.

If approving a list of bills or warrants, ensure that the list contains the following information:

The person or entity to whom payment is being made.

The amount of payment.

Intended date of payment.

The budget line item from which payment will be drawn.

Check number and bank account from which payment will be made.

The board provides final approval of the bills through a motion to pay, a second and a roll call vote. This must be reported in the township meeting minutes.



B. Transferring funds

Introduction

No individual or board can perfectly predict the financial needs of government. Because of this uncertainty, the law outlines instances when township officials can alter a budget and appropriation ordinance that was previously placed before the public for approval.

Transferring funds provides the Board of Trustees a procedure that achieves a balance between the public's right to know and government's responsibility to finance needed services.

Note: Despite its placement in the *Monthly Duties* section of this manual, Boards of Trustees should not construe this to mean the practice should occur on a monthly basis. Transferring of funds is a mechanism that allows the Board of Trustees to make up an *occasional* shortfall in a budgeted line item.

Statutory reference

Statutory details giving trustees the authority to transfer funds between line items within a specific fund are found in the *Township Code*, Chapter 60, of the *Illinois Compiled Statutes*, specifically:

Transfers among township funds, generally

60 ILCS 1/245-5 to 245-15

Transfers from township general fund to the general assistance fund

60 ILCS 1/250-5

Transfers from road and bridge fund

60 ILCS 1/255-5

Note: Specific notations concerning this topic are found throughout the *Illinois Compiled Statutes* including the *Illinois Highway Code* 605 ILCS 5. Please note additional references throughout this material.

Trustees' role

Trustees review and approve the transfer of funds by signing a written authorization and by board action to alter line items within a fund for a budget previously presented to the public and approved by the Board of Trustees.

For example: \$300 from an equipment line item could be transferred into the office supply line item to make up a shortfall.

To transfer surplus money between funds, trustees must seek elector/voter approval at the annual town meeting or at a special town meeting called for that specific purpose.

The intent of **60 ILCS 1/245-5** is to facilitate the transfer of *non-restricted funds* from one town fund to another only if the transfer does not disrupt vital township business or services.

Key definitions

1. *Fund* – An accounting and budgeting tool used by townships to separate and manage tax revenues that have been levied for both general and specific purposes.
2. *Restricted fund* – A fund whose purpose is strictly defined.

The use of monies levied for restricted funds is limited solely for their intended purpose. Movement of monies from one restricted fund to another is prohibited.

e.g. Dollars in the Audit Fund can only be expended on township audits.

All township funds are considered restricted **EXCEPT** for the General Town Fund and the Road and Bridge Fund. Restricted funds include:

Cemetery Fund.

Audit Fund.

Insurance Fund.

General Assistance Fund.

Illinois Municipal Retirement Fund (IMRF).

Social Security Fund.

3. *Non-restricted fund* – A fund that allocates revenues for general purposes.

Transfers of monies from non-restricted funds to other funds are permissible. Examples include:

Money can be transferred from the General Town Fund to the Insurance Fund or to the Audit Fund.

Transferring monies *within* funds

50 ILCS 330/3

Line item transfers

The township Board of Trustees can transfer monies between line items **within** any given fund.

The total of such transfers may **not** exceed, in the aggregate, 10% of the total amount appropriated in such fund.

e.g., If \$30,000 was appropriated in the General Assistance Fund, the board may transfer up to \$3,000 between line items within the General Assistance Fund during that fiscal year.

The highway commissioner and the assessor initiate the transfer request and it is the responsibility of the Board of Trustees to approve or disapprove the transfer between line items.

Note: Total expenditures may not increase without adopting an amended budget using the same procedures required for initial budget approval.

Transferring monies *between* funds

60 ILCS 1/245-5

Monies may **only** be transferred *from* non-restricted funds such as the General Town Fund to other funds.

Since general fund monies can be used for any township lawful purpose, money can be transferred **into** other funds including restricted funds if the transfer does not disrupt vital township business or services.

The Board of Trustees can transfer town funds to the General Assistance Fund.

60 ILCS 1/250-5



Best practice - One of the cornerstones of local government has been that tax dollars levied for a specific purpose can only be used for that purpose. This is the reason for having Special Revenue Funds also known as restricted funds. Boards should always avoid transferring money from a restricted fund.

Transferring funds in the road district

Road and Bridge Fund – Townships with 50,000 or greater population **60 ILCS 1/255-5**

Any township in counties with a population of 50,000 or more, occasioned by the fact that the township no longer has any road or bridges under its jurisdiction, may transfer a balance no longer needed for road and bridge purposes into any township fund.

Authority to transfer occurs because the township no longer has any roads or bridges under its jurisdiction.

Elector approval is needed at either the Annual Town Meeting or a Special Town Meeting called for this specific purpose.

Transferring interest between funds **60 ILCS 1/245-20**

Earned interest on any of the monies of the township may be transferred into the fund of the township that is most in need of the interest.

The township board authorizes such requests from the township treasurer.

This section **DOES NOT APPLY** to any interest earned on any funds for the purpose of:

Municipal retirement under the *Illinois Pension Code*, or

Tort immunity under the *Local Governmental and Governmental Employees Tort Immunity Act*.

II. Yearly Mandates

A. Budgetary process



Introduction

A budget is a:

Document that serves as a map for the township because it allocates resources for future goals and projects whose purpose is to satisfy identified public expectations.

Legal document, expressed in dollars and cents, providing a plan of operation for a specified time period.

Device for planning and controlling activities of government.

A budget sets the limit on what the township *can* spend: it doesn't dictate what the township *will* spend.

Purpose of the *Illinois Municipal Budget Law*

50 ILCS 330

This is an Act providing for and regulating the methods of adopting budgets and making appropriations by certain tax levying bodies of the State of Illinois, including townships.

This law was enacted for uniform accounting purposes, and not as a condition precedent to levying a tax.

The *Municipal Budget Law* intends for townships to prepare a budget before expending public funds.

Specific notations

Specific notations pertaining to budgets, levies and the appropriation ordinance are:

50 ILCS 330/1 through 330/5	Municipal Budget Law
35 ILCS 200/2-30	Budget Making
35 ILCS 200/18-10	Levy and Extension
35 ILCS 200/23-35	Tax Objection Based on Budget or Appropriation Ordinance
30 ILCS 350/16	Levy for Bonds
605 ILCS 5/6-501	Illinois Highway Code

Trustees' role

Trustees play a significant role in the budgetary process beginning with their participation in the strategic planning process and culminating in the review and adoption of the budget and appropriation ordinance for both the township and the road district.

Strategic planning:

Strategic planning is a disciplined effort used to produce fundamental decisions that shape and guide what a township is, what it does and why, with a focus on the future.

Assists in assessing and adjusting the township's direction in response to a changing environment.

Five steps to effective strategic planning

Step 1 – *Articulate the township's mission.*

A township mission statement articulates the role, or purpose, by which the township intends to serve its constituency and stakeholders. It describes what the township does, its current capabilities, who it serves, how its elected officials will ensure success and what guiding principles make it unique as it carries out its responsibilities.

Example: The mission of ABC Township is to enhance the image of local government by providing high levels of service in a timely manner at a responsible cost. Our guiding principles are open communication, professionalism, fiscal responsibility and integrity.

Step 2 – Evaluate and assess the local situation.

The elected officials' assessment of the township should include:

Identification of taxpayer concerns, needs and priorities.

Analysis of the performance of the prior year's budget to administer to the needs of the constituency.

Evaluation of community conditions, external factors affecting the township and program inefficiencies.

Determination of the township's strengths, weaknesses and resource availability needed to fulfill statutory duties.

Step 3 – Develop strategies, goals and objectives.

Elected officials formulate and agree on a strategy to address and respond to the critical issues identified in step 2 while maintaining flexibility to respond to unforeseen incidents.

Step 4 – Complete the written plan.

The final planning document is drafted by one member of the planning committee and is submitted for review to the full Board of Trustees. This document translates ideas into operating plans containing detailed action plans for accomplishing the goals proposed in the strategic plan.

The plan should contain adequate details to answer all questions as to program priorities, project implementation and contingencies.

Step 5 – *Assign dollars to the plan.*

Identify all sources of revenue and additional resources needed. Determine and allocate the dollars required for implementation of all projects outlined in the strategic plan.

Who determines the numbers?

Clerk – The board, with the clerk’s input, determines the budget for that office.

Assessor – **35 ILCS 200/2-20** provides that the board “shall be limited to the following... (2) determining and approving the budget of the assessor... However, **35 ILCS 200/2-30** provides that “At least 60 days prior to the beginning of each fiscal year, the assessor for each multi-township or township assessment district shall prepare...an office budget for the ensuing fiscal year.”

Highway commissioner – The highway commissioner shall prepare a tentative budget and file it with the township clerk at least 30 days before the public hearing. (**605 ILCS 5/6-501**)

The Board of Trustees shall adopt a tentative budget for the road district. (**605 ILCS 1/235-25**)

Supervisor – As chief executive officer and treasurer of the township, the supervisor should take responsibility to assign numbers to the budget that will allow for the implementation of the strategic plan and to make sure that the budget is “balanced.”



Best practice – Trustees should not cross over from governance to management functions during the budget process. Each elected official should propose a budget based upon the board’s strategic plan. The board must decide whether dollars are available and if the budgeted amounts are reasonable to put the strategic plan into action.

Timing

50 ILCS 330/3

The township Board of Trustees shall adopt **within or before** the end of the first quarter of each fiscal year a combined budget and appropriation ordinance.

Note: The statutes allow the township Board of Trustees to set the fiscal year. The Department of Commerce and Economic Opportunity recommends that the township fiscal year begin on April 1st and end on March 31st.

For example: If a township’s fiscal year begins April 1st, then June 30th is the last day to conduct hearings on and to approve a budget and appropriation ordinance.



Best practice - While budgets can be approved after the commencement of the fiscal year, sound financial management dictates that budgets be approved prior to the beginning of the fiscal year for which they are to be used.

Timeline

Six steps make up the budget timeline for townships.

1. Tentative combined budget/appropriation ordinance prepared.
2. Inspection – tentative budget available for public viewing at least 30 days before final action (adoption). (township clerk)

3. Notice published in newspaper by the township clerk at least 30 days before hearing.
4. Hearing conducted by the entire township Board of Trustees.
5. Adopt budget.

Township budget can be adopted at the hearing or at a meeting after the hearing.

The road district budget **MUST** be adopted at the hearing.

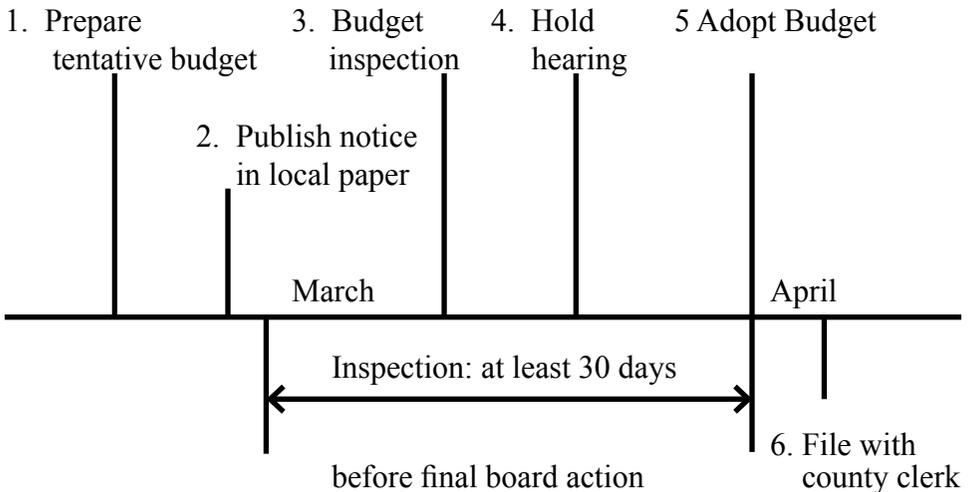
Note: Budgets must NOT be adopted at the annual town meeting.

6. File – The township clerk files the budget and appropriation ordinance with the county clerk within 30 days of adoption.

35 ILCS 200/18-50

If not filed, the county clerk may refuse to extend property taxes to fund the budget.

Graphic timeline



Budgetary process

1. Determine and adopt a budget calendar.

Calendars will vary depending upon the dates the Board of Trustees has adopted for the fiscal year.

Remember to allow enough time for discussion, revisions and review among the elected officials as well as the 30-day publication notice required before final adoption.

2. Prepare revenue estimates.

35 ILCS 200/18-50

Start with determining last year's total extensions from the county clerk. Revenues should be estimated and separated by fund. The General Fund typically includes the:

Supervisor's budget noted as Administration Budgeted Expenditures.

Assessor's budget.

Amortization of loans, if applicable.

General obligation bonds.

A separate fund should be established for all special levies such as:

Audit Fund.

Insurance Fund.

Social Security Fund.

Illinois Municipal Retirement Fund (IMRF).

General Assistance Fund.

Cemetery Fund.

Other special funds as permitted by statute.

Note: Road and bridge funds must be separated from the town funds.

A Certified Estimate of Revenues By Source must be attached to the budget and appropriation ordinance.

The county clerk shall have the authority, after giving timely notice, to refuse to extend the tax levy until the documents are filed.

3. *Prepare expenditure estimates.*

Refer to the section on strategic planning.

4. *Establish budget format.*

The statutes do not specify the budget format that should be used. However, the line item budget is generally considered the preferred format for the following reasons:

- Expenditures are divided into major expense categories such as personnel, contractual services, equipment, etc.
- Line item budgets provide a reader-friendly document explaining in detail, how tax dollars are spent.
- Such formats allow for monitoring and adjustments as conditions warrant.
- The policy maker or oversight authority can direct attention to specific line items when proposing cuts or changes.
- Less complicated financial reports make the determination of budgetary compliance or non-compliance easy.



Best practice – Sufficiently detailed line items should give taxpayers a better explanation of the township’s expenditures, bolster the legal appropriation and could reduce the number and frequency of tax objections.



5. *Prepare tentative budget document.*

Both the budget and the appropriation ordinance must be prepared in tentative form.

A budget that has **not** been enacted (approved) by the township Board of Trustees is called a **tentative budget**.

While in this status, revisions and changes to any part of the budget can still legally occur but must be included within the budget document before public viewing.

Note: Changes to the tentative budget can still be made during the meeting at which the tentative budget will be approved without being on file for 30 more days.

6. *Present budget and appropriation ordinance for inspection.*

50 ILCS 330/3

A tentative budget and appropriation ordinance must be on file with the township clerk and available for inspection **30 days** prior to the public hearing and final board action.

7. *Hold public hearing on the budget.*

50 ILCS 330/3

35 ILCS 200/23-35

605 ILCS 5/6-501



Best practice – At the public hearing, the Board of Trustees should provide a general explanation as to how the board arrived at the budgeted figures and leave plenty of time to answer questions from the electors/taxpayers present.

Capital funds

Townships may accumulate funds beyond those amounts normally allowed provided they are reserved or dedicated for specific capital improvement projects and/or a major equipment purchase.

So there is no misunderstanding about why monies are being accumulated, the annual budget and appropriation ordinance shall state the following with regard to *each* project to be constructed or major equipment to be purchased:

- Intended purpose or use of the funds.
e.g. A new township hall.
- Amount of capital expenditure.
e.g. \$450,000.
- Expected duration of any accumulation of funds.
e.g. 6 years.

Note: There is also similar language in the law pertaining to the road districts.

Changing the budget

There are two ways to change the budget after adoption:

1. **Transfer funds** between existing line items *in the same fund*. The total amount transferred may not exceed 10% of the budgeted amount for that fund. (See Monthly Duties, Transferring Funds, IB)
2. **Amend the budget** following the same procedure used to adopt the original budget; place on file for inspection, notice publication 30 days before hearing, public hearing, adoption, and file with county clerk.

Excessive fund balances

Townships collect tax revenues in order to provide services and programs to their constituents. Unspent monies can be accumulated and saved for “a rainy day” or for unforeseen events. However, townships may not have fund balances that are considered excessive.

Defined – Excessive fund balances are those balances that equal *more than* two years of spending within the fund.

Calculation

- Determine the average expenditures within the fund using the actual expenditures from the last three years.
- Divide the average into the current fund balance.
- If the result is more than two (2), and those funds are not publicly reserved or dedicated to a capital project, this fund balance is considered excessive.

See: *Central Illinois Public Service Company v. Lois E. Miller*: 42 Ill. 2nd 542, May 28, 1969.

Options for a fund having an excessive balance:

Stop levying for that fund until the balance has been spent down.

Refund the excess amount to the taxpayers.

Increase spending on programs or projects financed through the fund.

Establish a capital fund for a specific improvement project or equipment.

Effects of non-compliance with *Municipal Budget Law*

50 ILCS 330/4

The failure of the township to adopt an annual budget and appropriation ordinance **shall not** affect the validity of any tax levy provided it has been filed in compliance with the law.

While a township may legally file a valid levy without an adopted budget and appropriation ordinance, the county clerk **may** refuse to extend the levy and the township will not receive tax dollars to fund their operations for that fiscal year.

B. Preparing the levy



Introduction

A levy is the amount of revenue a township expects to receive through the taxation of real estate.

Levies are expressed in terms of dollars and not as rates.

Note: The township tax rate is calculated by dividing the levy request by the equalized assessed valuation (after removal of all exemptions) within the corporate limits of the township.

Purpose of the levy

The purpose of the levy is to raise enough money from real estate taxes to fund the portion of the budget left unfunded by other revenue sources such as fees, interest or donations.

Levies are a means of obtaining, through taxation of real estate, the money to be spent as authorized in the budget and appropriation ordinance.

Levies authorize collection of property taxes for the upcoming year. Budgets provide authority to spend it.

Statutory authority

Statutes providing authority and procedures for levy and extension processes as well as related Acts such as *Truth in Taxation* and the *Property Tax Extension Limitation Law* are found in Article 18 of the *Property Tax Code*, specifically:

35 ILCS 200/18-10 through 18-275

Trustees' role

A major responsibility of the Board of Trustees is to provide adequate resources to fund the budget so that the elected officials can carry out their prescribed duties under the law and achieve the goals of the township's strategic plan. While funding is available from numerous sources, townships rely heavily on the property tax (through the levy) as their principal source of revenue.

The Board of Trustees must determine or estimate what the proposed aggregate levy will be for all funds in the budget.

Road district – The highway commissioner determines the levy for the road district. The Board of Trustees must adopt (certify) the levy in the amount the commissioner wants and may not reduce the levy. **605 ILCS 5/6-501**

Timing

The township clerk must file both the township and the road district levies with the county clerk by the last Tuesday in December. **35 ILCS 200/18-15**

Process overview

The town levy ordinance is determined and adopted by the Board of Trustees.

The road and bridge levy is determined by the highway commissioner and adopted by the Board of Trustees. They may not amend the levy as determined by the highway commissioner.

The *Truth in Taxation Law* (**35 ILCS 200/18-55**) should be followed at all times. (See Section IIB – *Truth in Taxation Law* below.)

Note: For example, the amount levied in December 2009 and estimated to be collected in 2010 will provide funding for fiscal year budget 2010-2011 (assuming a fiscal year of April 1 to March 31).

A signed copy of the levy should be placed in the official records of the township.

The township clerk must file the following documents with the county clerk upon adoption of the levy:

35 ILCS 200/18-15
605 ILCS 5/6-501

A Certification of Tax Levy Ordinance.

A Tax Levy Ordinance.

A certification by the presiding officer (supervisor or highway commissioner) that the provisions of the *Truth in Taxation Law* have been met or are not applicable.

35 ILCS 200/18-90

Failure to maximize levies, especially in tax capped counties, will lead to future irrecoverable losses of tax revenues.
--

Note: Copies of documents should be kept in the official records of the township for public inspection.

Truth in Taxation Law

35 ILCS 200/18-55 through 18/100



Requirements

Townships that plan to levy more than 5% (105%) of the amount extended or billed taxpayers the previous year must publish a notice of their intent in a newspaper and hold a public hearing.

Intent of the Law

The *Truth in Taxation Law* establishes procedures taxing districts must follow in the adoption of property tax levies and to require taxing districts to inform the public of their intent to increase revenues from property taxes by more than 5% from the prior year.

“.. it is an opportunity for us to start making it clear that if taxes are going to increase, at least people have an opportunity to be informed and to have a chance to speak about it.”

Illinois State Senator McMillan, June 26, 1981

When discussing the intent of the Act, Illinois State Senator Dawn Clark Netsch stated,

“It is a Truth in Taxation Act... a very important step in the right direction of two things. One, making sure that the public does have an opportunity to know and to comment on significant increases in local government property tax levies. And secondly, that the knowledge that there will be a very dramatic public notice of any such increase, and a public hearing to follow, will in itself help ...to restrain local government units in terms of their levying for the future.”

Key definitions

Aggregate levy – the sum of the annual corporate levy of the township **plus** any special purpose levies made annually.

This is the amount of total property taxes the board wants to receive by the adoption of the levy.

Does **not** include levies for debt service.

Does **not** include levies for the purpose of paying amounts due under public building commission leases.

Note: If the levy for a *particular purpose* was in an amount more than 105% of the amount extended for *that purpose* the prior year, BUT the amount of the proposed aggregate levy for the township DOES NOT exceed 105% of the aggregate levy for the preceding year, the provisions of the Code do NOT apply to the levy proposed.

**1981 Ill. Atty. Gen. No. 030
(October 15, 1981)**

For example, you may levy a 110% increase in General Assistance but if the aggregate levy does not exceed 105% of the prior year's extension, the *Truth in Taxation Law* does not apply.

Special purpose levies – taxes levied annually to provide funding for specific programs or activities such as:

Pension contributions.

Unemployment.

Workers' compensation, etc.

Debt service – legally authorized levies (by referenda, contracts, ordinances, etc.) to retire the principal and/or pay interest on bonds, notes or other financial instruments of indebtedness.

Prior year extension or prior levy – the amount extended or estimated to be extended **plus** any amount abated by the township prior to extension, **exclusive** of any election costs as mandated by the *Election Code*.¹

Prior year extension = Extension + abatements – election costs²

Determining the need for compliance

Compare the amount of the **proposed** aggregate levy (hereafter “levy”) to the amount of taxes extended the prior year using the following process:

1. *Determine (estimate) the levy*

Must be completed **not less than 20 days before** adoption of the levy ordinance. **35 ILCS 200/18-60**

The levy is the key in deciding whether a publication and public hearing are required.



Best practice – Due to its importance, the amount of the levy the township is seeking should be noted in the minutes of the township.

¹ Use of the term “prior year extension” throughout this material refers to this definition unless otherwise stated.

² Extension can refer to the actual amount of taxes extended by the county clerk for the prior year or an estimated amount.

2. *Calculate the percentage increase*

Compare the proposed levy to that of the prior year using the following calculation:

Subtract the prior year's levy from the proposed levy and divide that result by the prior year's levy. Multiply by 100.

$$\frac{\text{Proposed levy} - \text{Prior year's levy}}{\text{Prior year's levy}} \times 100$$

Example: $135,000 - 126,000 = 9,000$

$$9,000 \div 126,000 = .0714 \times 100 = 7.14\%$$

If the result exceeds 5%, as in this example, a newspaper notice and public hearing are required.

35 ILCS 200/18-70

3. *Publish Notice in Newspaper*

35 ILCS 200/18-75

For townships, the notice must be published in an English language newspaper of general circulation published within the township not less than 7 nor more than 14 days prior to the hearing.

If there is no such newspaper, the notice must be published in an English language newspaper of general circulation published in the county and having circulation in the township.

Note: Any notice that includes any information **not** specified by the Law shall be an invalid notice.

35 ILCS 200/18-80

4. *Conduct of the public hearing*

The township's officers must explain the reasons for the proposed increase.

Persons desiring to be heard must be afforded that opportunity although the township board may set reasonable time limits for testimony and input.

The Truth in Taxation hearing may **not** coincide with the public hearing on the budget. **35 ILCS 200/18-70**

5. *Certificate of Compliance*

The county clerk is prohibited from extending taxes in amounts that exceed 105% of the prior year's levy unless the levy is accompanied by a certificate, signed by the supervisor, certifying compliance with the *Truth in Taxation Law* or that the Law is not applicable.

Additional important points

Compute the percentage increases for the township and the road district separately.

Notice publication for the township and road district must be separate but may appear side by side in the newspaper.

Hearings for the township and the road district can be held on the same day but must be at different times.

Property Tax Extension Limitation Law (PTELL)

35 ILCS 200/18-185



Intent of the Law

To slow the increase in real estate tax bills by setting a limit on how much a unit of government's tax extension (taxes billed) could increase from year to year.

Commonly known as "tax caps," the law does not cap taxes or assessment increases but limits the ability of local government to increase the amount of tax dollars generated from the property tax.

What limitations are placed on townships?

Townships in Cook County, the collar counties (DuPage, Kane, Lake, McHenry and Will) and those located in counties where voters have approved the limitations are subject to extension limitations.

The statute imposes a maximum extension increase over the prior year of 5% (105%) or the Consumer Price Index (CPI), whichever is less.

The limitation applies to the aggregate extension for those funds subject to the Law and not on a fund-by-fund basis.

Sources of revenue beyond the limitation

In addition to the inflationary increase in tax extensions on existing property, PTELL allows taxing districts to receive:

- Additional taxes attributable to new construction.

- Taxes resulting from annexations of property into the township.

- Increases to the limitation itself approved by referenda.

- Tax rate increases approved by referenda.

- The Tax Increment Financing district (TIF) increment when the TIF expires.

- All debt issued prior to the passage of the law is exempt from the limitation.

C. Township audits

Introduction

The township audit is an important fiscal management tool that examines the documents, records, reports, systems of internal control, accounting and financial procedures of the township.

It provides the Board of Trustees with an opinion of whether the township's finances (taxpayer monies) are being handled in compliance with generally accepted accounting principles and statutory mandates.

Whenever the audit suggests improvements, boards and staff should make every effort to enact them in order to strengthen fiscal control and regulation.

Trustees' role

The board should:

- Ensure that the supervisor makes arrangements for such audits in a timely manner when required.
- Be involved in the process of selecting the individuals or firms to perform such audits.
- Be on record as approving the individuals or firms that perform the required audits.
- File a copy of the accountant's report and recommendations with the township clerk and another copy with the county clerk for public inspection.
- Ensure the supervisor has filed the audit (if required) and the Annual Financial Report (AFR) with the Illinois Comptroller.



When are audits required?

60 ILCS 1/80-20

Annually - In townships that appropriate **\$850,000 or more** during the fiscal year, *exclusive of road funds*.

All records and accounts shall be audited by a Certified Public Accountant (CPA).

This audit must be completed *within six months after the close of the fiscal year*.



Best practice – It is recommended that every township have a professional external audit performed by a CPA on an annual basis regardless of the statutory requirements. These are funds well spent and will assure constituents that their tax dollars are being handled responsibly.



Annually - In townships that appropriate **less than \$850,000** during the fiscal year, *exclusive of road funds*.

The accounts and records of the township shall be audited and inspected by an independent auditing committee.

The audit shall be completed *within 6 months after the close of each fiscal year*.

Auditing committee makeup

Three (3) township electors selected by the township board.

The auditing committee shall not contain any member of the township board or any person related to a trustee.

All members must be proficient in accounting principles and practices.

The board may approve compensation, but it shall not exceed \$50 per day.

Upon vacancy or expiration of term

Townships receiving **less than \$850,000** must have records audited by a CPA within 6 months after (i) the end of each term of office of the township supervisor, and (ii) if a vacancy occurs in the office of supervisor.

Supervisor's annual accounting to the board

60 ILCS 1/70-30

The supervisor must provide an annual accounting to the township board within the 30-day period immediately preceding the annual township meeting. This accounting shall include all moneys received and disbursed by the supervisor in his/her official capacity.

Each board member must receive a copy of this statement as soon as possible after its filing in accordance with Section 1 of the *Public Funds Statement Publication Act*.

30 ILCS 15/1

The Annual Financial Report (AFR)



A requirement of the State Comptroller's Office, this form is mailed to the supervisor and must be completed and filed with the Comptroller and the county clerk within *six* months of the end of the fiscal year.

An audit should accompany the AFR if the township appropriates \$850,000 or more a year.

D. Annual town meeting



60 ILCS 1/30-5 through 1/30-205

Introduction

The purpose of the annual township meeting is to bring all electors to one assemblage, to discuss and consider any subject upon which the township may lawfully act. **Chicago & E. Ill R.R. v People ex rel McCord, 206 Ill. 296, 69 N.E. 93 (1903)**

This meeting allows residents to feel that they are part of an open, democratic form of government and provides them with an opportunity to interact with their elected township officials. It also reminds elected officials that they represent the township's electors and allows township officials to promote their accomplishments, programs and services to the electorate.

Timing

Date

60 ILCS 1/30-5

The annual township meeting shall be held on the **2nd Tuesday in April** of each year.

Should the 2nd Tuesday conflict with the celebration of Passover, the township board may postpone the annual township meeting to the **1st Tuesday following** the last day of Passover.

Whenever the consolidated election provided for in 10 ILCS 5/2A-1.1 of *The Election Code* is rescheduled to the second Tuesday in April under 10 ILCS 5/2A-1.1a of *The Election Code*, the annual township meeting shall be held on the **3rd Tuesday in April** at a time designated by the electors or township board, whichever is appropriate.

Time

60 ILCS 1/30-5

The annual township meeting shall be held **after 6 p.m.** on the designated date, unless the time is changed by the electors at a duly convened meeting.



Best practice - While the statutes only require the time of the meeting to be after 6 p.m., townships should set the meeting at a time that will be conducive to attracting the largest possible attendance.

Participants – The township clerk is the only township official acting in any official capacity at the annual township meeting. Trustees and all other officials, elected or not, participate as electors (voters) and each have an equal vote in each matter requiring a vote.

Among the clerk’s duties and responsibilities are:

60 ILCS 1/40-10

Acting as clerk of the meeting.

Keeping faithful minutes of the proceedings in a book to be known as the township record.

Entering at length in the township record every order or direction and all rules and regulations made by the meeting.

Meeting notice

60 ILCS 1/30-10

Notice of the time and place of the annual town meeting is given by the township clerk by posting written or printed notice in three of the most prominent public places in the township at least 10 days before the meeting.

In addition, if there is an English language newspaper published in the township, at least one announcement of the meeting must appear therein before the meeting.

The notice must set forth the agenda for the meeting.

The agenda

60 ILCS 1/30-10

The township board must adopt an agenda for the annual town meeting at least **10 days** before the meeting. Additional items may be placed on the agenda for consideration if requested by 15 or more registered voters in the township provided written notice of the specific request is given to the township clerk no later than March 1 prior to the annual meeting.

Any matter or proposal not set forth in the published agenda shall not be considered at the annual meeting other than advising that the matter may be considered at a special meeting of the electors at a later date. This effectively eliminates adding agenda items at the meeting previously allowed by law if approved by a 3/5ths majority vote of the electors present.

Meeting Place

60 ILCS 1/30-15

The place of holding township meetings shall be some convenient place in the township fixed by the township board.



Powers of the electors

Electors or township residents have been given statutory authority to require the township board to perform 38 different functions. These include a broad range of activities involving garbage, zoning, fences, purchase and use of township property and dealing with surplus property among many others. Some of the most common activities include:

Fix the hour at which town meetings shall be held.

60 ILCS 1/30-30

Spend monies for preparation of a detailed property record system.

60 ILCS 1/30-45

Make orders for the purchase and sale of property.

60 ILCS 1/30-50

Prohibit animals from running at large.

60 ILCS 1/30-95

Declare inoperable motor vehicles a nuisance.

60 ILCS 1/30-130

Transfer funds from one or more funds to other or different funds.

60 ILCS 1/30-185

Authorize an advisory question of public policy be placed on the ballot at the next election.

60 ILCS 1/30-205

A complete list of issues the electors can require a township board to undertake can be found in the statutes at:

60 ILCS 1/30-20 through 60 ILCS 1/30-205-5 in the
Township Code

605 ILCS 5/6-504 through 605 ILCS 5/6-617 in the *Roads
and Bridges Code*

E. Special Meetings

60 ILCS 1/35-5

Special township meetings shall be held when the township board (or at least 15 voters of the township) file in the office of the township clerk a written statement that a special meeting is necessary for the interests of the township. The statement also shall set forth the objects of the meeting, which must be relevant to powers granted to electors under the *Township Code*.

Timing

60 ILCS 1/35-5

The special township meeting shall be held no less than 14 nor more than 45 days after the written request is filed in the office of the township clerk. Special township meetings may not begin before 6 p.m.

Notice

60 ILCS 1/35-10

Notice of a special township meeting shall be given in the same manner and for the same length of time as for regular township meetings.

The notice shall set forth the object of the meeting as contained in the statement filed with the township clerk, which must be relevant to powers granted to electors under the *Township Code*.

The only business that can be conducted at a special meeting is that which has been specifically set forth in the statement and notice.

Quorum

60 ILCS 1/35-15

No special township meeting shall be convened unless 15 or more electors are present at the meeting. If a special township meeting is not convened because of an absence of 15 or more electors, that special township meeting shall not be re-convened unless all procedures for a special township meeting are again completed.

F. Statement of Economic Interest

5 ILCS 420/4a-101

Trustees must annually file a Statement of Economic Interest with the county clerk by **May 1**. The county clerk is required to notify all officials who must comply with this requirement.

Failure to file the appropriate forms and filing fee with the county clerk in a timely manner will result in late penalties.

Failure to file the requisite forms by **June 30** will result in the trustee's forfeiture of the elected position.

G. Prevailing Wage Act

820 ILCS 130/0.01

All public bodies, including townships and road districts, are required annually in June to adopt an ordinance concerning the *Prevailing Wage Act*.

The Act requires public bodies engaged in public works to pay a wage to laborers, workers, and mechanics that are engaged in the construction or maintenance of public works that is commensurate with the general prevailing wage paid in the locality in which the work is performed.

This includes any maintenance, repair, assembly, or disassembly work performed on equipment whether owned, leased, or rented.

As a result, townships and road districts must meet certain prerequisites when issuing bids and letting contracts for construction projects. All these conditions are listed in the Act and shall be met **prior** to the start of the project.

Process for passing the ordinance

- Obtain the Prevailing Rate of Hourly Wages, or accept the determination of the Illinois Department of Labor.

This information is available at the county clerk's office or online at

<http://www.state.il.us/agency/idol/rates/Rates.htm>

- Pass the prevailing wage ordinance.



- Within 30 days after the ordinance is adopted, the township and road district must publish in a newspaper a statement that the area's prevailing wage has been determined and is in effect.
- The township and road district must keep its determination of the prevailing wage on file for inspection. Each June a new ordinance must be filed setting forth the updated prevailing wage rates.



Important

- By **July 15th** of each year, a certified copy of the ordinance shall be filed with (mailed to) the Secretary of State, Index Division, 111 E. Monroe, Springfield, Illinois 62756 and to the Illinois Department of Labor, Conciliation and Mediation Division, One West Old State Capitol Plaza, #300, Springfield, Illinois 62701-1217.

III. General Responsibilities

A. Taxing authority

Statutory reference

Statutory details giving trustees the general authority to raise revenues through property taxation are found in the *Township Code*, Chapter 60, of the *Illinois Compiled Statutes*, specifically:

60 ILCS 1/235-5

This section of the *Township Code* does not list every activity townships may undertake and fund through the property tax. There are numerous references throughout the *Illinois Compiled Statutes*. A partial listing of activities townships may undertake include but are not limited to:

- Prosecuting or defending suits by or against the township.
- Maintaining cemeteries.
- Maintaining and operating a non-sectarian hospital.
- Providing mental health services.
- Offering senior services.
- Accumulating funds for capital projects.
- Appointing a committee on the disabled.
- Appointing a township committee on youth.
- Designating open space.
- Maintaining parks.
- Providing employment and training programs.
- Establishing zoning regulations.
- Establishing and maintaining libraries.
- Fence viewing.

See also **60 ILCS 1/85-5 through 60 ILCS 1/235-5** for additional activities townships may statutorily pursue.

Dillon’s rule

Townships and other units of local government are regulated by the provisions found in Article VII, Section 8 of the 1970 Illinois Constitution which state in part that these governments “shall have only powers granted by law.”

If the power doesn’t exist in the law,
the government or official may not
perform the service.

This means that if there is no statute permitting a township or road district to perform a function or service, the unit of government may not carry out that function regardless of how much it is needed or wanted by taxpayers.

B. Important laws and acts

Open Meetings Act

5 ILCS 120/1



Intent of the Act

Units of government exist to aid in the conduct of the public’s business and to provide services for their constituents through public funding.

The Open Meetings Act ensures that the deliberations and actions of public bodies are conducted openly.

To accomplish these goals the Act also requires that citizens are given advance notice of, and the right to attend, all meetings at which public business is conducted.

What is a meeting under the Act?

A meeting under this Act means any gathering or other means of contemporaneous interactive communication of a majority of a quorum of the members of a public body held for the purpose of discussing public business, or, for a 5-member public body, such as a township Board of Trustees, a quorum of the members (3) must be present for the purpose of discussing public business.

5 ILCS 120/1.02

Communication under the Act is not limited to in person, face-to-face verbal discussion but also includes communication by, but without limitation to:

5 ILCS 120/1.02

Video or audio conference

Telephone call

Electronic mail

Electronic chat

Instant messaging

Accordingly, for 5-member township boards, 3 members of the body constitute a quorum and the affirmative vote of 3 members is necessary to adopt any motion, resolution, or ordinance, unless a greater number is otherwise required.

Note – The township board cannot conduct any official business without a quorum of the board present. For townships, because a majority of a quorum (2 members) does not constitute a meeting, they cannot conduct any official business and nothing discussed can be made part of the township’s permanent record. Constituents who want to be heard without a quorum present may present their comments but they will do so not to elected officials but to private citizens.

Attendance by a means other than physical presence

5 ILCS 120/7

If a quorum of the members of the township board (3 members) is physically present at the site of the open meeting as required by Section 2.01, the affirmative vote of 3 members is necessary to adopt a motion to allow another member of the board to attend the meeting by other means. This requirement applies to both open and closed meetings. Participation from afar can be allowed if the member is prevented from physically attending because of:

- Personal illness or disability.
- Employment purposes or the business of the public body.
- A family or other emergency.

The “other means” referenced in the law means by video or audio conference, or other electronic means.

Some additional guidelines with which the board must comply to permit off-site attendance at board meetings include:

- The minutes of the meeting must reflect that member’s attendance was by phone or video conferencing.
- The board member seeking to attend off-site must inform the township clerk of their intentions before the meeting unless advance notice is impractical.

Any township board considering allowing remote attendance to its board meetings should adopt rules governing that privilege. These rules must comply with this Act.



Best practice – While a change in the law allows 2 board members to discuss township business and it no longer constitutes a meeting, it is still in the best interest of the public to limit these discussions in favor of having full open discourse in the public view.

Who must comply with the Act?

5 ILCS 120/1.02

A public body includes state and local governments, whether administrative or advisory. This includes committees, subcommittees, or commissions that are supported in whole or in part by tax revenue.

General requirements for regular meetings

5 ILCS 120/2.02

Provide the public notice of the schedule of meetings at the beginning of each calendar or fiscal year stating the dates, times and places of each meeting.

All meetings must be held at locations that are convenient and open to the public unless it is a “closed” meeting for a purpose allowed specifically by statute.

Agendas for each meeting must be posted at the principal office of the township and at the location at which the meeting is to be held at least 48 hours before the meeting.

Important: In *Rice vs. Adams County*, the requirement for an agenda posting prior to the meeting allows consideration of items not specifically mentioned in the agenda, including closed session matters. **However**, no final action or vote may be taken on any issue unless the item has been listed on the posted agenda at least 48 hours prior to the meeting.

All final action or votes must be taken in open session, never in closed session, and all votes must be preceded by an announcement of the issue being considered.

Meeting notice

5 ILCS 120/2.02

Public notice is given by posting an announcement containing the date, time and location of the meeting at the principal office of the township and at the building where the meeting is to be held.

Regular meetings – see “General requirements for regular meetings” above.

Rescheduled regular meetings

5 ILCS 120/2.03

If a change is made in a regular meeting date, 10 days' notice must be provided in a newspaper prior to holding the meeting and posted at the township office, or if no such office exists, at the place of the meeting.

For townships with a population of less than 500 in which no newspaper is available, notice of the change must be provided in 3 prominent places within the township.

Notice must also be given any news medium that has requested notification of meeting dates.

Reconvened meetings- notice requirements do not apply if:

5 ILCS 120/2.02

The original meeting was open to the public.

It is to be reconvened within 24 hours, or

An announcement of the time and place of the reconvened meeting was made at the original meeting, and

There is no change in the agenda.

Emergency meetings

Notice to the public and any news medium that has filed notification requests must be given as soon as practicable but, in any event, must be given before holding such meeting.

Special meetings of the township board

60 ILCS 1/80-10

At the request of the supervisor or any 2 members of the board, the township clerk shall call a meeting at the time requested and shall furnish the board members, *as well as news media* requesting notification, at least 48 hours' notice prior to the meeting.

Minutes

5 ILCS 120/2.06

All public bodies must keep written records of all meetings whether open or closed and a verbatim record of all their closed meetings in the form of audio or video recording.

Inspection

The minutes of meetings open to the public must be made available within 7 days of their approval by the board.

Minutes of closed meetings shall be available only after the township determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential.

Contents

5 ILCS 120/2.06

Minutes shall include but are not limited to the following topics:

Date, time and place of the meeting.

Members of the public body recorded as present or absent.

Summary discussions on all matters proposed, deliberated or decided.

Record of all votes.

Websites

If a township has a website that is maintained by full-time staff, effective January 1, 2006, the township must post on the website the annual notice of all meetings of the board and the agenda for all regular meetings of the board.

Effective July 1, 2006, the minutes of regular meetings of the board must be posted. See Public Act 094-0028 for additional details.

Closed meetings



5 ILCS 120/2 and 2a

The township board is permitted to go into a closed session to discuss certain township business outside the public domain.

The process of going into a closed session has been clarified in the case of *Wyman vs. City of Champaign*, by the Fourth District Appellate Court. The court has said that a public body may go into a closed session at any properly noticed regular open meeting without giving any additional notice or publishing their intent to do so in the open meeting agenda.

However, there are a number of procedures that must be strictly followed so as not to infringe upon the spirit of openness in our democratic system of government.

Closing a meeting to the public requires a:

- Motion to move into a closed session.
- A citation of the specific section in 5 ILCS 120/2(c) of the Open Meetings Act or a reference by subject matter must be given.

Note: It is not necessary to specifically cite the exception by the correct number, but rather to just identify the exception by subject matter. However, when referencing by subject matter and not including the specific statutory citation, it is best to be specific and detailed so as to leave no doubt for the reason for the closed session in the public’s mind. For example:

The words “employee matter” and “reclassification of employment” are sufficient to identify exception §2(c)(1) the employment exception.

The words “land acquisition” are sufficient to identify §2(c)(5).

- Second to the motion.
- Roll call vote.

Note: A voice vote is sufficient. The Open Meetings Act does not require that each board member’s vote be taken individually and recorded individually.

- Majority vote of the quorum present in favor of the motion to move into closed session.
- Majority vote to adjourn the regular meeting.

Written minutes of the closed session must be kept by the township clerk.

Recording closed meetings

5 ILCS 120/2.06

Effective January 1, 2004, townships are required to keep a verbatim record of the proceedings of all *closed* meetings in the form of an audio or video tape.

The township clerk must make these recordings as the elected official responsible for taking minutes of all meetings of the township board.

The township board must:

- Review the minutes of closed sessions every 6 months in closed session.
- Report in open session (1) the continued need for confidentiality or (2) that the minutes or portions thereof no longer require confidential treatment and are available for public inspection. Once the board approves the minutes, the tapes may be destroyed.

Note: Townships are required to keep the recordings a minimum of 18 months after the corresponding closed session.

The Act provides for 24 specific subject areas or exemptions for which discussions may be conducted in a closed session. A sampling follows:

Appointment, employment, compensation, discipline, performance or dismissal of specific employees of the township.

Hearing testimony on a complaint lodged against an employee to determine its validity.

Discuss filling a vacancy in any township office.

Purchase or lease of real property for use by the township, including meetings held for the purpose of discussing whether a particular parcel should be acquired.

Setting a price for the sale or lease of property owned by the township.

Probable or actual litigation involving the township.

Discussion of minutes of the meeting that was lawfully closed for the purpose of their approval or the semi-annual review of the minutes of closed sessions.



Best practice – Exceptions to the Open Meetings Act should be narrowly interpreted and used only when there is no question as to their applicability.

What can be done in a closed session?

5 ILCS 120/2

Board members may only discuss specific circumstances surrounding the cited exemption in the motion.

No final action or resolution of the issue may be taken in the closed session. Final action can only be taken in open session.

Who can be present in closed meetings?

The Board of Trustees including the supervisor.

The clerk for the purpose of taking minutes and making the mandatory recording of the proceedings.

Anyone who may be needed or helpful to the matter being discussed.

Note: The meeting is “closed” to the public and non-board members. All memoranda, notes, and correspondence from the township attorney are also considered confidential.

Freedom of Information Act

5 ILCS 140/1

***Editor's Note:** Governor Patrick Quinn has recently signed legislation passed by the General Assembly creating a public access counselor and significantly amending the Freedom of Information Act effective January 1, 2010. Before relying on the content of this section, we strongly encourage you to consult with your township attorney for updated rules and regulations resulting from this legislation.*

Intent of the Act

Consistent with the philosophy of constitutional government, people are entitled to full and complete information regarding the affairs, official acts and policies of government officials and public employees.

This Act is designed to foster governmental accountability and an informed citizenry by encouraging a free flow and disclosure of information between the government and the people it serves.

Such access to government allows people to:

Fulfill their duties of discussing public issues fully and freely.

Make informed political decisions and judgments.

Monitor government to ensure that it is being conducted in the public interest.

The act is to be liberally interpreted under the presumption that public records are open and accessible.

Note: All *confidential* memoranda and notes should be kept confidential.

The Act is NOT intended to:

Create an obligation on government to maintain or prepare public records that were not maintained at the time the Act became effective.

Violate individual privacy.

Further any commercial enterprise.

Provide access to information to the extent that it disrupts the efficient functioning of a government agency.

What public records have to be provided?

5 ILCS 140/1-2

The list of what qualifies as a public record is extensive. Please refer to the statutes for details. Also, see Exempted documents below or **5 ILCS 140/7**.

Townships should have the following documents on file, ready for copying or inspection **and** prominently displayed at the township offices. **5 ILCS 140/4**

1. Brief description of its purpose and an organizational chart of its functional subdivisions.
2. Operating budget.
3. Location and number of all its separate offices.
4. Approximate number of full- and part-time employees.
5. Identification and membership of any board, commission, committee or council that operates in an advisory capacity for the township.
6. List of records available for all township offices.
7. Written rules, procedures and regulations for the production, copying, inspection or certification of public records, to whom requests should be made and applicable fees.

The list of exemptions to this Act is extensive and the above reference should be consulted when determining if a specific request can be denied. General categories of exempt records *include but are not limited to*:

- Personnel files.
- Information that would be an invasion of privacy.
- Preliminary notes, drafts, recommendations or memoranda **except** if referred to publicly.
- Minutes of closed sessions unless reviewed and released.
- Bid information until a bid has been awarded.
- Construction related plans and submissions for projects not yet constructed or developed that use public funds.



Best practice – People have a right to know the decisions, policies, procedures, rules, standards and other aspects of government activity. Deny access to records very judiciously.

Ethics/Gift Ban Act

5 ILCS 430



Intent of the Act

The Act provides minimum guidelines to elected and appointed officials and their employees concerning the offering, solicitation, making and accepting of gifts from the persons whose interests are or may be affected by government entities.

The law specifies that no officer, employee, their spouses or immediate family members may intentionally solicit or accept any gift from a prohibited source.

Trustees' role

The Act requires all units of local government and school districts to adopt and enforce equivalent restrictions on the ethical conduct of their officers and employees, excluding independent contractors.

Part of the law required the Attorney General to develop a model ordinance to assist local government entities, such as townships and road districts, in complying with the requirements of the law.

Your township should already have adopted an ordinance the provisions of which should be “no less restrictive” than those of the Act.



Best practice – In the interest of fairness, consistency and ease of enforcement, the township board and road district should adopt the same ordinance using the same ethics commission structure.

Open Space Act

60 ILCS 1/115-5

Intent of the Act

This Act permits townships to establish an open space program in order to acquire and hold land to maintain or enhance the conservation of natural or scenic resources, protect natural streams and water supplies, enhance public outdoor recreation, and preserve flora, geological features, etc. among other purposes.

What is “open land?”

Open land has been defined as any space or area of land or water that is 50 acres or more.

Case law has further refined the definition to include a portion of a parcel of 50 acres or more rather than the 50-acre parcel by itself.

It has further been held that a parcel less than 50 acres may not be acquired unless it is a portion of a tract of 50 acres or more being successfully contemporaneously condemned by the township.

Trustees’ role

Once an open space petition has been authorized by the public and adopted, trustees are authorized to:

- Study the open space needs of the township **60 ILCS 1/115-50**
- Accept money for open space purposes **60 ILCS 1/115-65**
- Hire an executive officer to carry out the plan **60 ILCS 1/115-70**
- Acquire and transfer property **60 ILCS 1/115-55**
- Borrow money **60 ILCS 1/115-105**
- Issue bonds in support of the plan **60 ILCS 1/115-105**

Cemetery Act
60 ILCS 1/130-5
60 ILCS 1/133-5
50 ILCS 610 *Public Graveyards Act*



Intent of the Act

The *Public Graveyards Act* allows the township board to establish and maintain cemeteries and exercise control over public cemeteries located within and outside the township that are not under the control of any corporation or society. **50 ILCS 610/1**

Trustees' role

Under the *Public Graveyards Act*, control may be vested by the Board of Trustees in 3 trustees (not township trustees) to form a cemetery board which has the power to:

Accept gifts, real or personal property, and to hold it in trust for use by the cemetery.

Sell lots.

Protect the property of the cemetery.

Make rules and regulation governing the grounds.

Construct and maintain a building used for general maintenance of the property.

Resource Information

LuAnn Johnson, President
Alliance of Illinois Cemeterians
217-789-2340

General Assistance
60 ILCS 1/70-50
305 ILCS 5/6-1 *Public Aid Code*

Intent of the Act

Section 1/70-50 of the *Township Code* designates the township supervisor as the *ex officio* supervisor of General Assistance in the township and provides authority for the supervisor to administer the township's General Assistance program.

General Assistance overview

305 ILCS 5/6-1

General Assistance is a financial aid program designed to meet basic requirements for well-being and a healthy livelihood. In addition, General Assistance may provide for any necessary medical treatment, care and supplies required because of illness or disability on a monthly payment basis to or on behalf of eligible assistance clients by the General Assistance office. The supervisor:

Appoints employees as may be necessary to provide public aid under Article VI of the Illinois Constitution.

Prescribes compensation and assigns duties to such employees.

305 ILCS 5/12-21.2

Follows and adheres to the standards approved by the Illinois Department of Human Services.

Provides funds for General Assistance, including salaries for employees from a budget appropriated by ordinance by the Board of Trustees.

Trustees' role

Trustees provide financial auditing functions for General Assistance programs and take action on the General Assistance budget as determined by the supervisor.

Note: The supervisor need **not** have the Board of Trustees approve payment to a General Assistance client prior to disbursement. Other General Assistance office expenses, however, must receive prior approval from the Board of Trustees before they may be expended.

Illinois Local Records Act

50 ILCS 205



Intent of the Act

The legislature has an explicit desire to facilitate the operation of local government while balancing the public's right to access records of public business. The purpose of the Act is to manifest the legislature's concern for determining which records need to be preserved and which need not be retained indefinitely and to provide guidelines and a process for the destruction of public records.

Trustees' role

Legislation has designated the township clerk as the keeper of the records who therefore has custody of township records, books, and papers except for General Assistance cases. The clerk oversees the proper disposal of records pursuant to **60 ILCS 1/75-5**.

Trustees should ensure that the clerk has fulfilled all requirements of the Local Records Commission before disposing of any records.

Local Government Professional Services Selection Act

50 ILCS 510

Intent of the Act

When selecting architectural, engineering, and land surveying services townships must enter into contracts with these design firms on the basis of demonstrated qualifications and competence at a fair and reasonable cost for the type of services required.

The statute places emphasis on quality and competence in the selection process for the design service phase of a project rather than strictly on fees. Architects and engineers take undefined concepts and convert those concepts into a set of plans complete with all specifications and material lists. They give definition to ideas. Contractors will take those project criteria and bid on the cost of turning the plan into a physical reality.

The goal of the Act is to protect the owner and the public interest by ensuring the selection of a firm that is qualified to do the work as opposed to merely seeking the lowest bidder at this critical project phase.

Trustees' role

The overall implementation of this Act remains the duty of the township supervisor and clerk as they will make certain that all public notice requirements are met and will oversee the final selection process.

Trustees, in their oversight capacity, need to ensure that emphasis in the selection process was first and foremost placed on competence and quality of service (Qualifications Based Selection QBS) and not based solely on fees or established relationships with the decision makers.

For additional information please refer to the statutory citation above as well as the following website: <<http://www.illinoisqbs.org/>>.

Public Officer Simultaneous Tenure Act

50 ILCS 110

Intent of the Act

In order to alleviate questions and concerns that had been raised regarding public officials, specifically township officials, holding multiple offices simultaneously, the legislature passed the *Public Officer Simultaneous Tenure Act*. This Act specifically indicates the legality or compatibility of township officials holding positions on the county board.

Compatible positions pursuant to statute **50 ILCS 110/2**

The *Public Officer Simultaneous Tenure Act* specifically finds the following elected positions can be held simultaneously. Please note the population requirements for some of the simultaneous tenures. It is lawful for any person to simultaneously hold:

The position of county board member and township supervisor, except in Cook County. **60 ILCS 1/70-45**

The office of county board member and township trustee in counties of less than 100,000 population.

The office of county board member and the office of township assessor in counties of less than 300,000 population.

The office of county board member and the office of town clerk in counties of less than 300,000 population.

The office of county board member and the office of township highway commissioner in counties of less than 550,000 population. **50 ILCS 105/1.1**

Time Off for Official Meetings Act

50 ILCS 115

Intent of the Act

This Act allows any elected official to absent himself or herself from all services or employment on the day and time of an official meeting of the public body.

Specific provisions permitted by the Act

The employer may deduct an amount of compensation from the elected official's wages for the period of absence.

The elected official must inform the employer in advance of his intent to absent himself from employment for attendance reasons at the official meeting.

No employer shall refuse any privileges conferred by the Act to the elected official.

No employer shall subject the absent official to a penalty for exercising such privilege except as provided by the Act.

C. Letting contracts

Introduction

Every township has the corporate capacity to perform the duties and functions granted to it by law and no others. In order to carry out these duties, townships have the authority to enter into contracts with individuals, governmental agencies, not-for-profit corporations, public entities and any for-profit entity.

Corporate powers

60 ILCS 1/85-10

Townships may enter into contracts to:

Facilitate the purchase of real estate and personal property for public uses providing payment over 20 years for real estate and 10 years for personal property.

Construct a township hall calling for payment over a period of not more than 10 years.

Carry out all township powers.

Expend federal funds made available to the township for any purpose for which taxes are imposed on township property.

Contracting with township officials

60 ILCS 1/85-45

According to the *Township Code* "...no township officer or employee shall be interested, directly or indirectly, in his or her own name or in the name of any other person, association, trust, or corporation, in any contract for work, materials, profits of work or materials, or services to be furnished or performed for the township...." For a list of permissible interests in contracts, see 60 ILCS 1/85-45.

Township services

60 ILCS 1/85-13

Townships may fund directly or enter into contractual agreements to provide any of the following services to the residents:

Public safety programs.

Environmental protection.
Public transportation.
Health.
Recreation.
Libraries.
Social services for the poor and aged.



Best practice - 60 ILCS 1/85-45 provides two very specific exceptions that allow any elected official to provide materials, merchandise, property, services, or labor to the township. Best practices in public service would dictate that township officials and their employees should refrain from entering into any contractual agreement with the township they serve.

Trustees' role

Given their fiduciary and oversight roles within the township, trustees should:

Familiarize themselves with all aspects of any contract.

Be convinced it is in the best interest of the residents.

Assure the credit worthiness of the parties if monies are being paid to the township.

Determine that there is a line item in the budget and sufficient funds remaining to comply with the terms of the contract if payments are to be made by the township.

Ensure the township's attorney has reviewed and endorsed the provisions of the contract.



Best practice – As part of their fiduciary responsibility, trustees owe loyalty and good faith to their constituents at least equal to that required in the private sector. Therefore, they should avoid any involvement in any contract on behalf of the township in which they could remotely be accused of benefiting or having a financial (pecuniary) association or advantage. See **50 ILCS 105/3** for prohibited interests in contract letting.

D. Bidding requirements

60 ILCS 1/85-30
720 ILCS 5/33E-5 through 12

Except as provided below, all townships, regardless of size and location must seek bids for any purchase of services, materials, equipment or supplies when the cost is projected to be in excess of \$20,000.

Process – Townships may enter into a contract in one of the following ways:

1. By contract with the lowest responsible bidder after advertising for bids at least once (i) in a newspaper within the township, or (ii) if none, then one published in the county, or (iii) if none, then one having general circulation within the township.
2. By contract without advertising for bids in the case of an emergency if authorized by the Board of Trustees.

Exceptions to the bidding process

Emergency upon board approval.

Professional services.

Government Joint Purchasing Act.

30 ILCS 525/1

Federal Acquisition Streamlining Act of 1994.

Contracts with the federal government.

Negotiating with the lowest bidder

Once opened, officials may negotiate a lower price with the low bidder but such negotiations cannot include a discussion of a price reduction based on different specifications.

If specifications are changed, all bidders must be allowed to resubmit their bids.

If the lowest bid is too high and can only be reduced by a change in specifications, all bids must be rejected and the job must be put out for bids again.



Best practice – A fair, open, and competitive bidding process will facilitate sound project management and responsible decision making only when a complete set of specifications and project expectations and goals is provided each prospective bidder.

E. Retention of professionals



50 ILCS 510/0.01

Introduction

When considering retaining or entering into contracts with professionals, public organizations and private businesses, etc., the township should have a screening process in place that ensures it will hire and receive the best service for the most economical price.

Before retaining the professional services for architectural, engineering and land surveying services for any purpose, please consult the full text of the *Local Government Professional Services Selection Act*, **50 ILCS 510/0.01**

The Act states that it shall be the policy of political subdivisions of the State of Illinois to negotiate and enter into contracts for architectural, engineering and land surveying services on the basis of demonstrated competence and qualifications for these services.

The Act outlines specific procedures for handling public notice processes, selection procedures and contract negotiation requirements when hiring the aforementioned professionals.

Township attorney

60 ILCS 1/70-37 and 1/100-5

The selection and appointment of a township attorney shall be done by the supervisor with the advice and consent of the Board of Trustees.

The Board of Trustees fixes the compensation of the township attorney appointed by the supervisor.



Best practice – While the above process pertains specifically to township attorneys, it is best followed when hiring any professional such as surveyors, engineers or architects. The supervisor and the Trustees should always work together during the screening process. The final selection is made by the supervisor with the recommendation and approval of the Trustees.

Evaluation process

Consult national or state professional organizations including TOI for a list of potential candidates who serve the region and have experience in local government issues.

Send a request for a proposal or an information packet describing the services the township needs to as many candidates as possible requesting the following information for evaluation and comparison:

Statement of interest level.

Experience serving township government.

Professional background of the individual and/or firm.

List of references of previous or existing clients.

Licensing information and compliance.

Continuing education requirements and fulfillment status.

Personnel who will be assigned to work on the township's issues.

Experience levels of personnel to be assigned to the township project.

Fee structure for both principals and associates.

Associated services or other fields of expertise that can be provided.

Recommendations from previous clients discussing ability to meet deadlines.

Ability to remain on budget.

Discussion on current workloads and future commitments of personnel.

Firm's approach to project development, organization and management.

Request proof or certificates of insurance for all causes.

F. Liability insurance

According to the National Center for Small Communities, risk management for governments is not just about preventing losses and controlling liabilities. It also is about enhancing the likelihood that good things will happen, all in the service of promoting welfare and well-being in the community.

All township challenges, endeavors and programs are accompanied by risks that could potentially strain already challenged budgets. The mere possibility of liability suits can influence the ability of the board to make controversial decisions—decisions that may be in the best interest of the township.

A township's risks and its exposure to loss and liability must be minimized by implementing measures to address these issues in an organized and coordinated manner.

Chief among a township's liabilities is the medical liability it bears for its General Assistance clients. Once a township has a General Assistance recipient it becomes responsible for all of that person's medical bills irrespective of the malady. Because this is an unfunded mandate of Illinois law, townships receive no financial assistance from any other government source and bear sole responsibility for any extraordinary medical expenses incurred by General Assistance recipients.

It is therefore strongly advised that all townships purchase a catastrophic medical insurance policy that will provide townships coverage against potential catastrophic medical expenses of their General Assistance recipients. Making this policy a part of the township's risk management program will allow the township to maintain budget stability by controlling the costs of risks.

Trustees' role

In order to protect the township from financial catastrophe, trustees' fiduciary responsibilities extend to ensuring their exposure to potential losses and liabilities is minimized by:

Identifying areas of potential risk with the help of all other township officials.

Taking steps to minimize risk potential so as not to bring harm to the community.

Seeking adequate insurance protection.

TOIRMA (Township Officials of Illinois Risk Management Association)

Beginning operations on June 1, 1986 and currently the third largest pool of its kind in the United States, TOIRMA provides a risk management program focusing exclusively on the needs of township government.

Owned by its membership and governed by elected township officials, TOIRMA serves only townships and provides low cost coverage specifically designed to meet the needs of townships. Some available coverage is not generally available in the commercial market.

TOIRMA can provide a stabilized cost structure that has historically included dividend payments to subscribing members.

Note: In addition to TOIRMA, there are a number of other companies in the marketplace that can provide townships with liability and loss coverage.

Trustees' role

Safeguarding unspent public funds is a critical function of the Board of Trustees. Because of its importance, Trustees must assure that institutions receiving township monies meet the guidelines set forth in the *Public Funds Investment Act* as summarized below.

Types of institutions in which township funds may be placed

Banks.

Savings Banks or Savings and Loans.

Federal National Mortgage Association (Fannie Mae).

Credit Unions.

State Treasurer's Investment Pool.

Agencies of the United States including:

Federal land banks.

Federal intermediate credit banks.

Banks for cooperative.

Federal farm credit banks.

Other entities authorized to issue debt obligations under the *Farm Credit Act of 1971*.

Federal home loan banks.

Federal Home Loan Mortgage Corporation.

Any other agency created by Act of Congress.



Best practice – Supervisors should generally select a short list of qualifying institutions and recommend the final selection. Trustees should approve the final recommendation(s).

Process initiation

The township board shall designate a bank or banks or other depository in which to deposit funds when requested by the following individuals who have the responsibility of receiving and/or safeguarding township funds:

- The township collector. **35 ILCS 200/20-30**
- The township supervisor. **60 ILCS 1/70-10**
- The township road district treasurer **605 ILCS 5/6-206**

Reporting requirements for financial institutions

30 ILCS 235/6

To receive public monies, banks must furnish townships with the last two sworn statements of resources and liabilities. These are the same reports banks are required to submit to the Commissioner of Banks and Real Estate or to the Comptroller of the Currency.

Note: The amount of funds deposited in a bank or savings and loan which are not collateralized or insured by an agency of the federal government cannot exceed 75% of the capital and surplus of such bank or savings and loan association.

Financial interests

50 ILCS 105/3.2

Members of the Board of Trustees affiliated with local banking institutions may enter into contracts for deposit of monies, loans, or other financial services with these banks or savings institutions provided:

In their position with the institution, they have less than 7.5 % of total ownership interest.

The interested member of the public body must publicly state the nature and extent of interest during deliberations concerning the proposed contract, and

no longer participates in any further discussions concerning the contract, and

the interested member does not vote on the contract.

A majority of the members voting endorse the contract.

Note: The interested member, while abstaining from discussions and voting, may be counted towards establishing a quorum.



Best practice – Despite the allowances listed above, whenever possible trustees should refrain from depositing public funds with institutions in which they have any ownership, interest or affiliation.

H. Surplus property



60 ILCS 1/30-53 and 1/80-75

Township or road district personal property – value \$2,500 or less
60 ILCS 1/30-50

Approval of a resolution by the electors (voters) is *not* necessary.

The personal property sale notice must describe the property in full.

The following information shall be posted with the notice:

- The date by which all bids must be received by the township or road district, which shall be no less than 30 days after the date of posting or publication, and
- The place, time and date at which bids shall be opened, which shall occur at the regular meeting of the township board.

The township clerk must provide notice of intent to sell.

Notice must be published once in a paper of general circulation in the township. If no such paper exists, then the clerk must post the notice in five (5) of the most public places in the township. In addition, the notice must be posted at the office of the township or road district, as applicable.

Property – value more than \$2,500

Real or personal property

The electors shall adopt a resolution stating the intent to sell the property. This resolution shall contain the following information:

A full description of the property.

A statement of the terms and conditions the electors deem necessary and desirable for the sale.

For real property, the resolution must contain the size, use and zoning of the property.

The value of real property shall be determined by a State licensed real estate appraiser, and the appraisal must be available for public inspection.

The Board of Trustees may by a vote of 3/4ths of the board accept the high bid or any other bid determined to be in the best interests of the township, but *in no event at a price less than 80% of the appraised value.*

Staff or a licensed real estate agency may conduct the sale but the agency's compensation shall be included in the resolution.

Publication requirements are similar to those for property whose value is \$2,500 or less.

Trade-ins

A trade-in of machinery or equipment on new or different machinery or equipment *does not* constitute the sale of township or road district property.

Property donations

The majority of the electors at the annual meeting or a special town meeting may declare property owned by the township as surplus for purposes of *donating* the property to a historical society or other not-for-profit corporation.

The Board of Trustees must pass a resolution containing:

60 ILCS 1/80-75

Identification of the historical society or not-for-profit corporation.

The intended use of the property.

Authorization for the supervisor to execute all documents to transfer it.

A requirement that the property revert back to the township if the use of the property changes from its intended use.

Note: Used highway department machinery or equipment means that machinery or equipment which shows 200 or more hours on its operating clock. **605 ILCS 5/6-201.7**

I. Filling vacancies

60 ILCS 1/35-35

60 ILCS 1/60-5

If a township fails to elect the number of officers to which it is entitled or a vacancy occurs, except for the office of township or multi-township assessor, the Board of Trustees shall fill the vacancy by appointment.

Persons appointed to fill vacancies:

Retain the position for the remainder of the unexpired term.

Have the same powers and duties as if elected.

Are subject to the same penalties as if they had been elected.

Must be of the same established political party as the person who vacated the position if the person *was elected* running as an established political party.

Receive the same pay for the position.

Note: Vacancies in the office of township or multi-township assessor must only be filled in accordance with the *Property Tax Code* specifically, **35 ILCS 200/1-1**

If a vacancy on the township board is not filled within 60 days, then a special township meeting must be called under **35 ILCS 1/35-5** to select a replacement pursuant to **35 ILCS 1/35-35**.



Important

Warrant of appointment



60 ILCS 1/60-15

When the Board of Trustees makes an appointment they must ensure a warrant of appointment is filed with the township clerk who then notifies each person appointed.

Temporary vacancies

If an office becomes temporarily vacant due to the physical incapacity of a township officer, the board may temporarily appoint a deputy to perform the functions of the elected officer until the elected official submits a written statement to the board that he or she is physically able to perform assigned duties.

Note: If an elected official moves out of the township, then the position held becomes vacant.

J. Advisory referenda

60 ILCS 1/80-80

By a majority vote of the Board of Trustees, the board may authorize an advisory question of public policy be placed on the ballot at the next regularly scheduled election in the township.

The board certifies the question to the proper election officials who in turn submit the question in accordance with general election law.

K. Personnel policy manuals

60 ILCS 1/100-5

In townships with 5 or more employees (elected officials are not included in this count), the Board of Trustees must adopt and file with the township clerk a document that establishes the rules and policies concerning all employee benefits. The manual must include but is not limited to:

- Insurance coverage.
- Compensation.
- Overtime pay.
- Compensatory time off.
- Holidays.
- Vacation policy.
- Sick leave.
- Maternity leave.
- Others as may be relevant.

Every assessor or multi-township assessor (**35 ILCS 200/2-65**) and highway commissioner (**605 ILCS 5/6-201.20**) with 5 or more deputies or other employees must also file similar documents with the township clerk.



Best practice – For simplicity of enforcement and fairness, townships are encouraged to have a single personnel policy covering the benefits, township rules, and regulations for all employees.

Note: A sample personnel policy manual is available by request at the Download Center at <<http://www.toi.org>>.

L. Setting salaries

60 ILCS 1/65-20
60 ILCS 1/80-35

The Board of Trustees sets the compensation of each township officer for services rendered to the township at least 180 days before the beginning of the term of office of that officer. **50 ILCS 145/2**

Salaries are set prior to elections and for each year of the 4-year term of office.

Benefit eligibility and payment schedules for benefits such as various group health insurance, should be established at the same time salaries are set and should extend for the full term of the official.

Township assessor - Salaries for township assessors are set at the same time as that of the supervisor, as discussed above. **35 ILCS 200/2-70 and 60 ILCS 1/65-5**

Multi-township assessor – Salaries are set by the Board of Trustees at least 150 days prior to the election. **35 ILCS 200/2-70 and 60 ILCS 1/65-5**

Road district treasurer - Compensation shall not be less than \$100 nor more than \$1,000 per year. **60 ILCS 1/65-20**

Multi-township officers – At least 150 days before the election of multi-township officers, the multi-township board may establish additional pay of those board members for their services in an amount not to exceed \$25 per day for each day of service. **60 ILCS 1/65-20**



Best practice – Trustees should establish salaries that are commensurate with the duties and responsibilities of the office, competitive with similar positions in the private sector and provide a reasonable wage for the region.



M. Oath of office

60 ILCS 1/55-10

All elected township officials including the township enforcement officer and collector shall take an oath of office prior to entering upon their duties as prescribed by the Constitution.

The oath can be administered by any person authorized to deliver oaths of office such as the township clerk or judges.

Within 8 days of taking the oath, signed certificates of oath are filed with the township clerk and the county clerk.

Failure of any official to take and subscribe the oath of office and file the certificate in a timely manner shall be considered a refusal to serve.

60 ILCS 1/55-15

N. Membership on other committees

50 ILCS 105/2a

No township supervisor or trustee, during the term of office for which he or she was elected, may accept, be appointed to or hold any office by the appointment of the Board of Trustees unless he or she first resigns from the office of supervisor or trustee or unless the appointment is specifically authorized by statute. Any appointment in violation of the foregoing is considered void.

A trustee or supervisor may serve as a volunteer fire fighter and receive compensation for that service.

An elected township official may hold elected office in another unit of government as long as there is no contractual relationship between the township and the other unit of local government.

IV. Best Practices

A. Budget philosophy

Budgets should never be overestimated simply because money is available.

Revenues should never be estimated based upon anticipated fees, the potential of unfunded mandates or hypothetical interest rate projections.

Expenditures should be realistic and not intentionally underestimated.

The budget document should be balanced.

Budgets should reflect the outcomes of strategic planning that is based on constituent priorities and community needs.

B. Conducting effective meetings

Introduction

Monthly board meetings present an opportunity for township officials to conduct meetings that encourage discussion, move towards established goals, set aside politics and personal agendas and encourage public involvement.

In so doing, they demonstrate the best attributes of government by maximizing effectiveness and demonstrating high levels of professionalism and accomplishment.

Statutory reference

Statutory details relative to periodic township board meetings are found in the *Township Code*, which is Act 1 in Chapter 60 of the *Illinois Compiled Statutes*. **60 ILCS 1**

Additional references are found in the *Open Meetings Act*, Chapter 5, Act 120 of the *Illinois Compiled Statutes*. **5 ILCS 120/1 to 120/6**

Specific notation for periodic township board meetings:
5 ILCS 120/2.02
60 ILCS 1/80-10

Trustees' role

The supervisor is generally responsible for meeting logistics, agendas, preparation of the meeting packet and all related materials.

The role of the trustee in conducting effective meetings focuses on preparation prior to the meeting and meaningful contribution during the meeting. Specifically, trustees should:

Review all documents included in their packet *prior* to the meeting.

Perform any additional research to guarantee meaningful contributions and informed decision making.

Focus on the aims and goals of the meeting and not *personal or political* agendas.

Actively contribute to make the meeting productive.

Ask pertinent questions to resolve uncertainties before casting important votes on issues and projects.

Remember: Any item can be *discussed* at the monthly meeting even if it was not on the agenda. However, Illinois courts have ruled that it is improper for the township board to *vote* on any issue that was not placed on the agenda. A simple rule of thumb is, if it's not on the agenda, don't vote on it.

General aspects of effective meetings

Pre-meeting planning

Trustees should communicate, through the township clerk, interests, agenda items and other concerns to the supervisor in advance of the meeting as this helps prevent surprises, establishes a meaningful timeframe and ensures a sense of direction for board members and attendees alike.

Keep the purpose of the meeting in mind

Meetings planned with specific purposes are more productive and enhance the board's chances of achieving the goal(s) and desired outcomes.

Involvement

All board members and the public should be encouraged to participate in the process to encourage divergent opinions, which result in longer lasting decisions.



Best practice – Legally speaking, the public has no right to speak or address the board at the monthly board meeting. They only have a right to speak at a public hearing. However, in the interest of superior public service and effective government, the board should set aside a designated time, early in the meeting, for public comments.

Specific elements of successful meetings

Meeting packets – Packets should contain the following:



Agenda.

Summary of bills to be paid.

Copies of correspondence.

Written reports submitted by other officials for the record.

All materials pertinent to the discussion of agenda items.

Any other information that will facilitate completion of township business.



Best practice – Meeting packets should be mailed to all trustees well in advance of the meeting in order to provide sufficient opportunity for review of all agenda items prior to discussion and taking action.

Location

All meetings required by the *Open Meetings Act* shall be held in a location that is **convenient** and open to the public.

5 ILCS 120

General considerations:

Convenient to public transportation and/or for vehicular access.

Accessible to handicapped and elderly persons.

Lighting, heating, air conditioning, and acoustics should provide for the comfort of all attendees.

Seating arrangements:

Make sure all participants, including the public, can see and can be seen.

Supervisor, as meeting chair, should be seated in the middle of the group.

When possible the public should be invited to sit at the table with board members when making presentations or participating in longer discussions.

Avoid “raised altar” or elevated seating as it sends a message of superiority.

Prepare necessary materials and test audio/visual equipment before the meeting to avoid delays and confusion.

Tips on conducting effective meetings

Start and finish the meeting on time.

If the public is present, introduce all the elected officials by name and position.

Review the agenda and allow for board members to suggest minor changes.

Note: In order to take action on an item during a meeting, the particular item must be specified on the posted agenda at least 48 hours in advance of the meeting. Items brought up under “new business” and not specified on the agenda may be discussed but not voted upon.

Emphasize the purpose of the meeting and the major objectives to focus attention on the critical issues to be discussed.

Follow the agenda scrupulously.

Leave all predispositions, politics, and hidden agendas at the door.

Don’t incite or encourage competition among members of the public.

Allow all officials and the public to have their say in an orderly manner on all agenda items.

When ending the meeting:

Review all the decisions, resolutions, etc., that were made.

Determine who is responsible for carrying out the decisions and review time frames or other pertinent information for their completion.

Remind all officials of the date, time and place of the next regular meeting.

Parliamentary procedures

Parliamentary procedure:

Makes it easier for people to work together effectively and ensures that everyone's rights, privileges and obligations are protected.

Guarantees the rights of the minority are protected, including the right to be heard and the right to oppose.

Ensures that every item presented is fully discussed.

Makes sure that every member understands the ramifications of any issue before the board.



Best practice – The board should adopt rules of procedure that will *assist* meeting members in achieving their goals and encourage discussion rather than obstruct or inhibit participation.

60 ILCS 1/80-10d

Robert's Rules of Order

Robert's Rules of Order is generally accepted as the standard for parliamentary procedure. A large volume containing 400-500 pages, it provides details on parliamentary procedures concerning every aspect of conducting a public meeting. Topics include but are not limited to procedures concerning:

Agendas.

Making motions.

When motions are not required.

Amending motions.

Modifying motions.

Debate processes.

Voting requirements.

Can townships devise a practical formality?

Trying to understand and implement hundreds of pages of procedure and formality can be confusing, counterproductive

and a waste of precious time for both the public and board members.

Behind Robert's Rules of Order are five basic principles that should drive the conduct of any meeting. They are:

One question or proposal at a time.

The right of every member to free and full debates.

The democratic principle that the will of the majority shall prevail.

The principle of equity.

Courtesy.

Knowing these guiding principles, township boards should be able to agree on a system that satisfies the purposes of the formal procedures while avoiding being bogged down in parliamentary procedure by simply:

Creating agendas, assigning time limits, and adhering to the agenda faithfully.

Allowing all participants to be heard including the public.

Establishing a routine for debate, if need be, such as moving clockwise around the table or alternating by political party.

Conducting votes that are unhurried and have an agreed-upon process (standing votes, voice votes, raising hands).

Conducting discussions that are relevant, informative and professional.

Avoiding debate that is partisan, confrontational, or lacking in substance.

C. Intergovernmental agreements

Article VII, Section 10 of the Illinois Constitution provides authority for units of local government to contract among themselves to obtain and share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or ordinance.

In addition to the Constitution, specific references in the *Illinois Compiled Statutes* provide specific instances when townships can join with other entities to provide services that singularly they may not be able to accomplish including:

Providing health care.

Zoning.

Cemetery maintenance.

Senior housing.

Leasing equipment.

Intergovernmental agreements, therefore, provide a mechanism whereby townships can respond to constituents' demands for lower taxes and expanded services by pooling resources, purchasing in bulk and sharing costs and equipment.

D. TOI Voluntary Mediation

Township Officials of Illinois (TOI) has a long history of support for township government and its elected officials. Over the years, TOI has become an increasingly important source of information and guidance.

Those who seek TOI's expertise are looking for answers to questions ranging from legal requirements to problems with day-to-day township operations. Many requests are for clarification of duties and responsibilities of various officials. These may be relatively minor issues or heated disagreements that occasionally can escalate into serious disputes which sometimes threaten the stability of township government and spill over into the public sector.

Because of the complicated nature of some disputes and the need for accurate information and timely resolution, TOI has established a voluntary mediation program to encourage internal resolution of all disputes or disagreements.

TOI Voluntary Mediation (TOIVM) is designed to address most

sources of conflict in order to facilitate a resolution that is in the best interest of TOI, its membership, and the people of Illinois.

Unlike traditional mediation, TOIVM also serves an educational function. Its purpose is to address the conflict resulting from unfamiliarity with the duties and responsibilities of township officials, statutory requirements and/or other specific issues and requirements of holding public office.

By its nature, mediation is a process of cooperative problem solving. Through the process of mediation and education, TOI hopes to secure the cooperation of all parties to a dispute and to facilitate a peaceful, equitable resolution.

E. Memberships in other professional organizations

60 ILCS 1/85-15

This section of the *Illinois Compiled Statutes* enables township boards to join a township organization, TOI, a not-for-profit organization whose purpose is to educate, disseminate information and research, and perform other acts for the purpose of improving township government for member townships. Funding can occur through payment of dues and fees.

Township Boards of Trustees are encouraged to join this and similar institutions as a means of improving access to information, new technology and techniques for the express purpose of enhancing township government in Illinois.

F. Handling litigation

1. Before, during and after any litigation, consider the applicability of:

Open Meetings Act.

5 ILCS 120

Freedom of Information Act.

5 ILCS 140

Other bodies of law.

2. What to do when the township is being sued.

A copy of the complaint and summons or at least substantive pleadings should be distributed to each trustee.

Each trustee should review and understand the complaint and each substantive pleading such as motions for injunctions or summary judgments.

No trustee should discuss or otherwise comment on pending litigation unless directed by the full board.

The township board should meet as soon as possible, in closed session, to:

- Fully discuss the litigation.

- Consider ramifications.

- Consider ways to resolve the litigation.

- Designate the supervisor or other official to direct the responses.

- Arrive at a protocol in handling the litigation.

- Confirm notice to insurance provider.

- Confirm insurance coverage or lack thereof.

- Confirm counsel.

3. What to do when the township needs to sue.

Go into closed session to fully discuss the matter.

Have the advice of counsel prepared, preferably in a detailed, written memorandum, which fully discusses **all** applicable law and the facts of the issue.

Consider the ramifications including:

- Cost.

- Counterclaims.

- Constituent and third party reactions.

- Distractions to daily activities.

- Timing.

- Probability of success.

Consider alternatives to litigation.

Designate the supervisor or other official to direct the litigation.

Arrive at a protocol in handling the litigation.

Notify insurance provider.

4. Always take all votes in open session.

5. Other considerations:

Budgeting and/or appropriating expenses.

Budgeting and/or appropriating funds to cover potential exposures.

Correcting problems that initiated the litigation.

G. Nepotism

Defined as favoritism shown by persons in high office to relatives or close friends especially in granting jobs, nepotism may appear to offer certain benefits to elected officials but is perceived by the public as an absolute abuse of power.

Nepotism or political patronage has no redeeming value in the eyes of constituents. Elected officials have been given the public's trust to act and manage the business of government in ways that provide benefit to the voters not advantage to elected officials.

All elected officials should avoid nepotism and dissuade their colleagues from engaging in this or in any activity that casts government in a bad light.

H. Managing personnel – hiring and firing by the Board of Trustees

Hiring employees

Township boards have the ability to hire employees (**60 ILCS 1/100-5**), except when specific hiring authority has been given to an elected official. For example:

Assessors have the authority to hire their employees.

35 ILCS 200/2-65

Supervisors may hire General Assistance employees.

305 ILCS 5/12-21.2

Highway commissioners may hire road district employees.

Collective bargaining – On June 1, 2005 an amendment to the *Illinois Public Labor Relations Act*, Public Act 93-108 went into effect. This change provides collective bargaining rights to local government employees who are employed by a local government with 5 or more employees (formerly 35 or more).

Note: If your township or road district employees pursue collective bargaining, it is imperative that you seek legal counsel to represent the township’s interests.



Best practice – Hiring and firing of employees is a management function best performed by the elected official responsible for conducting the day-to-day activities of that office. Trustees perform governance or oversight functions and should limit their involvement to assuring that employment laws are being followed.

Firing employees

Generally, employees are hired *at will* meaning there is no contractual relationship between the township and the employee. Consequently, either the employer or the employee may terminate the employment at any time for any reason or for no reason at all provided the reason is not discriminatory.

Employees may not be fired for exercising constitutional rights, criticizing public officials, joining labor unions, or “whistle blowing” activities.

Patronage firings, firings solely for political purposes, violate constitutional rights and are also illegal.

Note: Townships that participate in the Township Officials of Illinois Risk Management Association (TOIRMA) have access to the Human Resource Risk Management Association for assistance: 888-472-6785, ext. 1180.

I. Criminal sanctions

60 ILCS 1/55-37

Any township official who is found guilty of unmistakable omission of duty, willful or corrupt oppression, mal-conduct or misfeasance in the discharge of duties, is subject to:

A fine of not more than \$1,000.

Removal from office by the court in which the official was convicted.

Notes and Updates