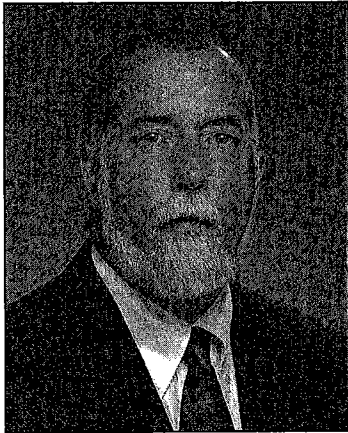


# Road, Street, Highway and Bridge Financing Options for Local Governments

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It is the case for most counties that funding for roads, highways and bridges is in short supply. Therefore, counties may need to consider the option of issuing bonds to pay for some portion or all of such improvements. Sources of revenue that counties may want to consider in order to repay bonds include property taxes, income taxes, motor vehicle taxes, distributions from the motor vehicle highway account and the local road and street account, tax increment, some cumulative funds or a combination of these sources.

Keep in mind that using these revenues may count against or exceed a local unit's debt limit; therefore, it may be preferable to use a lease structure, which does not use or count toward a unit's debt limit. For example, a county may do a lease financing.

## Property Taxes

While cities and towns are permitted to issue general obligation bonds payable from a levy on property taxes to fund street construction, counties are not permitted to levy bonds payable from ad valorem property taxes for road construction. This has been the case for counties since 1937. However, counties do have the authority to issue bonds payable from cumulative funds, which frequently contain property tax revenues. Cumulative funds are discussed below.

## County Revenue Bonds

Counties are authorized under IC 8-18-22 to issue revenue bonds to provide funds for (1) constructing, maintaining and repairing bridges, approaches and grade separations, (2) constructing "major

bridges" – structures that are at least two hundred feet long and underpasses of any length, (3) constructing interstate bridges, (4) constructing, reconstructing, improving, and maintaining public highways, bridges, and culverts, (5) assisting in grading and draining any public highway connecting with a county or state highway or the boundaries of a city or town, (6) locating and relocating county roads, acquiring land, and building and repairing municipal bridges. Bonds issued under IC 8-18-22 may be payable from a variety of sources, including local income taxes, distributions of revenues from the motor vehicle highway account and the local road and street account, assessments, the cumulative bridge fund, the major bridge fund and any other unappropriated or unencumbered money.

## Cumulative Funds

Although the county revenue bond statute provides that a county council may not pledge to levy property taxes to pay the debt service on county road and bridge bonds, it expressly permits a county to use revenues from its cumulative bridge fund or its major bridge fund to pay debt service on county road and bridge bonds (see IC 8-18-22-6). Counties are authorized to establish a cumulative bridge fund under IC 8-16-3 and to impose a property tax at a rate not to exceed ten cents per one hundred dollars of assessed valuation for that fund to pay for the costs of constructing, maintaining and repairing bridges, approaches and grade separations. Many counties are also authorized to establish a "major bridge fund" under IC 8-16-3.1 and levy a property tax

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at a rate not to exceed three and thirty-three hundredths cents per one hundred dollars of assessed valuation to provide funds for the construction of "major bridges" — structures that are at least two hundred feet long and underpasses of any length.

Other cumulative funds that can be established by a county include a cumulative building or sinking fund or a cumulative capital improvement fund. IC 36-9-16 permits a county to impose a property tax rate for such a fund, not to exceed thirty-three cents per one hundred dollars of assessed valuation, to provide money to acquire land or rights of way to be used for public ways including highways, roads and sidewalks and to construct and maintain such public ways.

In addition, under IC 36-9-14.5, a county may establish a cumulative capital development fund to provide funds for capital needs. Under these provisions, counties are permitted to impose a property tax rate not to exceed ten cents per one hundred dollars of assessed valuation (for a county that has adopted either the County Option Income Tax (COIT) or County Adjusted Gross Income Tax (CAGIT)) or seven cents (if COIT and CAGIT has not been adopted by the county).

### **Income Taxes**

A county may, under certain circumstances, pledge its distributive share of COIT, Economic Development Income Tax or CAGIT to pay debt service for road and bridge financings.

### **Wheel Tax & Motor Vehicle Excise Surtax**

Some counties have been reluctant to impose the county wheel tax and the county motor vehicle excise surtax (which must be imposed together), due to the relatively small amount of revenues generated from these taxes (and the relatively large amount of criticism). However, if imposed, a county could pledge its allocated share of revenues to the payment of road and bridge bonds and, therefore, be able to leverage more funds than could be undertaken on a pay-as-you-go basis.

### **Monthly Distributions**

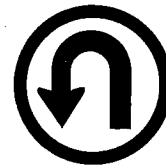
Similarly, counties may pledge their monthly distributions from the motor vehicle

highway account and the local road and street account to the payment of road and bridge bonds. These monthly distributions are usually used by local highway departments on a pay-as-you go basis; if used for debt service, a local unit might be able to undertake projects that would otherwise be too large to be funded on a pay-as-you-go basis.

### **Tax Increment Financing**

A redevelopment commission may issue bonds or enter into a lease payable from tax increment to pay for construction, repair and maintenance of roads, streets and bridges. In order to use tax increment, the redevelopment commission must first establish an economic development area (or a redevelopment area) in which new development will occur. New property taxes from the new development ("tax increment") are captured from the area by the redevelopment commission to be used for projects that will encourage the development of the area. Those projects are frequently road, street or bridge construction projects. The road, street or bridge project must be in, serving, or benefitting the redevelopment or economic development area. Tax increment may also be used creatively with the other revenue sources described above.

*Ice Miller LLP serves as general counsel to the Association of Indiana Counties. For further information on borrowing for road and bridge projects, please feel free to contact Buddy Downs at (317) 236-2339 or Rhonda Cook at (317) 236-5979.*



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