

LEGAL ADVERTISEMENT

The White River Township Board will meet on January 24, 2012 at 7:00pm at the Office of White River Township Trustee, 2929 S. Morgantown Rd., Greenwood, IN, for the purpose of review and acceptance of the Annual Report for 2011, submitted by the Township Trustee to the White River Township Board. And to consider any other matters that may come before the board at that time.

Gregory Rainbolt - Chairman
White River Township Board – Johnson County

Mark Messick <mmessick353@gmail.com>

Mon, Jan 30, 2012 at 4:00 PM

To: Greg Rainbolt <GRAIN5775@yahoo.com>, Peggy Young <myty616@yahoo.com>

FYI... here is the email which I was talking about at our meeting last week. Mr. Buschmann makes a couple of points which I feel support my hiring the investigator as an employee.

1. -"the statue clearly contemplates that the investigator will be an employee"....
2. -"the fact that investigators are paid for days worked simply implies that part time employment is contemplated on need."
3. "Since the investigator would be an employee, he/she would be subject to all of the confidentiality rules covering government employees and **any claims for liability involving that employee would be limited under the Indiana Tort Claims Act.**"
4. "While the statue does not prohibit using an independent contractor, **you would have to have a carefully worded contract to cover the scope of work, the time limitations involved in township investigation, and the confidentiality requirements.**"
5. "Based on the information...provided on usage of the investigator, the annual savings to the township would be insignificant, at best. (hiring an independent contractor)
6. "**The cost of preparing the contract** and monitoring the person as an independent contractor **might well exceed those savings.**"

[Quoted text hidden]



Mark Messick <mmessick353@gmail.com>

Township Assistance Investigators

3 messages

Stephen R. Buschmann <buschmann@indiana-attorneys.com>

Thu, Jan 5, 2012 at 8:27 AM

To: Mark Messick <mmessick353@gmail.com>

Mark

You asked me whether the township investigator had to be a employee of the township. My answer is that while the statute clearly contemplates that the investigator will be an employee, it is possible ot use an independent contractor in certain circumstances.

- ☞ I have pasted the appropriate sections of IC 12-20-4. The Chapter is entitled "Employees of Township Trustee" and in each instance the code sections dealing with investigators refer to "employing" the person. The provision dealing with townships sharing an investigator (IC 12-20-4-7), uses the word "employ" for each township. Further IC 12-20-4-11 provides that a township can provide vacation and sick leave for an investigator, which benefits are exclusive to employees. The fact that investigators are paid for days worked simply implies that part time employment is contemplated based on need.
- ☞ Assuming that you do employ an investigator, you would be required to treat them as an employee, albeit part time, and pay unemployment insurance, workers compensation insurance and withhold taxes and FICA. Since the investigator would be an employee, he/she would be subject to all of the confidentiality rules covering government employees and any claims for liability involving that employee would be limited under the Indiana Tort Claims Act.

While the statute does not prohibit using an independent contractor, you would have to have a carefully worded contract to cover the scope of work the time limitations involved in township assistance investigation, and the confidentiality requirements. An independent contractor does not have the liability protections of the Indiana Tort Claims Act and would need to provide his/her own workers compensation insurance (or waiver) and his/her own liability coverage. Based on the information you provided on usage of the investigator, the annual savings to the township would be insignificant, at best. The cost of preparing the contract and monitoring the person as an independent contractor might well exceed those savings.

Let me know if I can be of further help.

Steve

IC 12-20-4

Chapter 4. Employees of Township Trustee

IC 12-20-4-1**Office expense and clerical help**

Sec. 1. The township trustee may pay out of township assistance money the necessary office expense and clerical or other help necessary to properly administer township assistance.

IC 12-20-4-2**Supervisors, investigators, assistants, and employees; compensation**

Sec. 2. The township trustee of each township, in the trustee's official capacity as chief executive officer within the township, may do the following:

(1) Employ supervisors, investigators, assistants, or other necessary employees in discharging the township trustee's duties concerning the provision of township assistance.

(2) Fix the salaries or wages to be paid to the supervisors, investigators, assistants, and other necessary employees employed by the township trustee.

IC 12-20-4-3**Supervisors, investigators, assistants, and employees; number; pay**

Sec. 3. (a) The township trustee shall determine the number of township assistance supervisors, investigators, assistants, or other necessary employees that are employed by the township to administer township assistance.

(b) The pay of township assistance supervisors, investigators, assistants, and other necessary employees shall be fixed by the township trustee subject only to the total budgetary appropriation for personnel services for the administration of township assistance approved by the township board.

(c) A township assistance supervisor, investigator, assistant, or other necessary employee who uses an automobile in the performance of the employee's work is entitled to the same mileage paid to state officers and employees.

IC 12-20-4-4**Qualifications of investigators**

Sec. 4. An individual may not be employed as a township assistance investigator unless the individual:

- (1) is a high school graduate or possesses an equivalent degree;
- (2) is at least eighteen (18) years of age; and
- (3) is a resident of the county where the township is located.

IC 12-20-4-7**Townships jointly employing investigators; payment**

Sec. 7. (a) Two (2) or more townships in the same county may jointly employ an investigator to investigate township assistance applicants and recipients.

(b) Payment for investigations conducted under this section shall be made on the basis of the number of cases handled for each township in the same manner and at the same rate as otherwise provided for the payment of investigators under this chapter.

IC 12-20-4-11**Supervisors, investigators, assistants, and employees; pay; vacation; sick leave**

Sec. 11. (a) A township assistance supervisor, investigator, assistant, or other necessary employee shall be paid only for the number of days the employee is actually engaged in employment during each month.

(b) A township assistance supervisor, investigator, assistant, or other necessary employee shall be paid at the rate established by the township trustee from an appropriation by the township board with no deduction for legal holidays.

(c) A township assistance supervisor, investigator, assistant, or other necessary employee shall be paid out of the same money as claims for township assistance are paid. Claims for pay are payable upon presentation of a sworn claim itemizing each day for which pay is requested. Claims are to be made and filed in the same manner as other claims for township assistance expenditures are payable, at least once each month.

(d) Each township assistance chief deputy, investigator, supervisor, assistant, or other necessary employee may be granted paid vacation leave or sick leave under IC 5-10-6-1.

(e) The township trustee of a township having a population of at least ten thousand (10,000) may appoint a

chief deputy. A chief deputy may be paid from any township funds.

IC 12-20-4-14

Construction of chapter

Sec. 14. This chapter does not limit the reasonable number of employees who may be engaged in any processing of work as provided by law.



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Mark Messick <mmessick353@gmail.com>
To: "Stephen R. Buschmann" <buschmann@indiana-attorneys.com>
Cc: Greg Rainbolt <GRAIN5775@yahoo.com>

Thu, Jan 5, 2012 at 8:38 AM

Steve,
Thanks, I will forward information to board.
All My Best,
Mark

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