

2011 Statehouse Report

2011 Session: IACT Fends Off Repeated Attacks on Local Decision Making

The 2010 election changed the political balance at the Indiana Statehouse. For starters, the Senate Republicans gained a “super-majority” with their 37 members outweighing the 13 Democrat members to the point where Republicans could form a quorum without the Democrats’ presence. In the House, Republicans picked up a 60 to 40 member majority. It was a great unknown heading into the 2011 session how this dynamic would operate with new control and all the freshman legislators. Mid-way through session, the House Democrats walked out and went to Urbana, Illinois for a period of nearly six weeks. This was the longest walkout for any state legislature at any point in history. With the House Democrats’ return, work resumed and unbelievably the schedule got back on track. All in all, IACT came out in good standing this session.

While we were successful with several of our initiatives, we had to put up strong fights to defeat the large amount of anti-home rule legislation that was filed. For instance, bills were filed that would have damaged city and town annexation powers -- stifling growth and economic development (Senate Bill 69 - Senator Gard, R-Greenfield; Senate Bill 10 - Senator Buck, R-Kokomo). Another bill would have required cities and towns to use its public safety local option income tax revenue only for new spending instead of allowing us to pay for expenses we already have (House Bill 1170 – Rep. Morris, R-Fort Wayne). Yet another bill originally attempted to destroy the ability for a city or town to have an effective rental housing inspection program which is important to public safety and community economic development in many cities and towns (House Enrolled Act 1543 – Rep. Speedy, R-Southport). There was even legislation filed that attempted to undo specific local decisions that had been made in compliance with the law in open public meetings – an attempt to exert a “state legislative veto power” over a locally made decision (Senate Bill 68 – Senator Gard, R-Greenfield). In addition, we worked right up until the end of session on Senate Enrolled Act 292 which, at first, attempted to take away local control to pass an ordinance regulating the discharge of firearms, even in densely populated neighborhoods.

In order to confront this attack on our home rule authority, IACT launched a diverse media campaign. We used a combination of social media and traditional media to protest the large number of bills that attacked local decision making. We used Twitter to talk about specific bills and coined the term “Statewide City Council” to explain that the state legislature was taking on a new role of making decisions that should be made only by municipal councils. We wrote op-eds and submitted them to newspapers around the state. In addition, we interviewed several IACT members on video who made comments about the attack on home rule and put these videos on YouTube. We also commissioned a political cartoon to be drawn. In the end, with the assistance and pressure applied by IACT members, we were able to defeat unfavorable legislation or were able to make it more palatable.

Prior to the start of the session, the IACT Legislative Committee worked diligently to come up with a list of initiatives that would bring about important change for cities and towns. The focus was on operational initiatives which would streamline and simplify local government processes. We are happy to report that several of these initiatives became law. We were successful in getting House Enrolled Act 1174 passed, which allows local governments to dispose of property without having to go to a second round of bids when bids come in below 90% of the appraised value. We also were successful with House Enrolled Act 1275, which allows units to move cash from Rainy Day and EDIT funds by resolution or ordinance instead of having to appropriate the funds twice (once to move the cash and once to spend). In addition, House Enrolled Act 1004 was passed containing two of IACT's initiatives – we were able to increase the threshold for when a unit must use the bid process versus the quote process for public works projects and we also got language passed that increased the dollar amount for work a unit can do with its own workforce versus having to bid out the project.

This Statehouse Report contains an in-depth summary of the enrolled acts that we believe are important to municipalities. Unless otherwise noted in the summary, the legislation takes effect on July 1, 2011. To read the actual legislation that passed, we encourage you to visit the State of Indiana's legislative webpage at <http://www.in.gov/legislative/>. As always, feel free to contact our legislative team at (317) 237-6200 if you have any questions.

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Administration

State and Local Administration (HEA 1004 P.L. 172-2011)

Author: Eric Turner

Sponsor: Luke Kenley

- Multiple effective dates.
- Requires the auditor of state to work with the office of technology and other state agencies to post on the Indiana transparency Internet web site a data base of state expenditures and fund balances and property owned by the state.
- Requires the commission for higher education to establish a web site where members of the public may view financial and other reports to a state agency that are public records. Requires information concerning local governments and local schools to be on the web site.
- Makes the economic development study committee a four year committee that expires December 31, 2014, and provides for certain studies.
- Requires the Indiana economic development corporation (IEDC) to collaborate with local economic development organizations and submit an annual report to the study committee regarding collaboration.
- Requires the state board of education, the commission for higher education, and the department of workforce development to work together to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.
- Requires the IEDC to conduct a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana.
- Decreases the corporate income tax rate from 8.5% to 6.5% over four years.
- Provides that the adjusted gross income tax and financial institutions tax (for investment companies) apply to interest on state and local bonds that are issued by a state other than Indiana, or a political subdivision of such a state, and that are acquired by the taxpayer after December 31, 2011.
- Provides that in the case of a county that becomes a member of a regional development authority (other than the northwest Indiana regional development authority) after June 30, 2011, and before July 1, 2013, the county may impose an additional county economic development income tax at a rate of 0.025% (rather than 0.05%, under current law).
- Allows counties that are more than two years behind on issuing tax bills to petition the department of local government finance to postpone the deadline for paying the first installment on a 2011 provisional property tax statement.
- Extends the time in which the city of Marion, a second class, or the city of Westfield may establish a professional sports development area. (18) Permits a person who received an overpayment of unemployment compensation to repay the excess over 36 months.
- Removes and repeals restrictions on activating a third community revitalization enhancement district in Delaware County and claiming tax credits for investments

in the third district. Provides new criteria for designating a community revitalization enhancement district after 2010.

- Increases the maximum amount of income tax credits available under the venture capital investment tax credit from \$500,000 to \$1,000,000. Extends from 2013 to 2015 the end date for investments eligible for the venture capital investment tax credit. Suspends, for two years, the application fee for applicants seeking certification for the venture capital investment tax credit.
- Eliminates an advanced earned income tax credit.
- Permits local governments to pledge revenue from the county adjusted gross income tax and the county economic development income tax for redevelopment financing.
- Sets certain state credits to expire.
- FIRE TERRITORIES: Indicates that the delivery of services through a fire protection territory is not considered a municipal service for zoning outside the boundaries of the municipality. Specifies that a member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to join or establish a fire protection territory if that member is also an employee of a participating unit or of another unit that is proposing to become a participating unit. Specifies that different tax rates may be levied for the participating units included within the territory. Specifies additional actions in order to become part of a fire protection territory and sets these additional requirements to expire on July 1, 2012. Requires the DLGF to review the tax rates and levies for each fire protection territory that is located in Hancock County and consider adjusting tax levies for participating units and whether different tax rates for fire protection services should be applied for the participating units included within the territory.
- PUBLIC SAFETY LOIT: Provides that a fire department, volunteer fire department, or emergency medical services provider may apply to the county to receive a distribution of the public safety local option income tax (LOIT) tax revenue before the remainder of the tax revenue is distributed to the county and to the municipalities in the county. Specifies that a municipality is entitled to receive a distribution of public safety LOIT revenue only if the municipality is providing public safety services.
- IACT INITIATIVE: Increases the cost of projects that may be performed without awarding a public works contract. Requires certain public works contract provisions for a public works project of more than \$1,000,000. Specifies notice and public meeting requirements that must be satisfied in certain circumstances before a public work project may be performed by the workforce of a municipality, county, state agency, or state educational institution. Adds requirements for examination reports prepared by the state board of accounts concerning certain public work projects.
- IACT INITIATIVE: Increases the cost threshold at which bids and quotes are required under the local public works statute to \$150,000.
- Provides that the circuit breaker credit and certain property tax deductions are to be allowed in the year of a property transfer if the property is determined to be exempt in the year following the transfer year.

- Allows the DLGF to cancel any property taxes assessed against real property owned by a local port authority.
- Prohibits the DLGF from approving a budget until a taxing unit files a financial report with the state board of accounts in the immediately preceding year. Corrects a reference to the date of the 2015 general reassessment.
- Establishes a procedure for a taxpayer to appeal an error in a circuit breaker or other property tax credit.
- Changes the methodology for certain property tax levy and rate determinations after a reassessment.
- Specifies that the full amount of property taxes imposed after being approved in a referendum shall be deposited in the fund for which the property taxes were imposed without reduction for the circuit breaker credits granted to taxpayers.
- Provides that property taxes on property consisting primarily of onsite regulated amusement devices and related improvements may be allocated for purposes of tax increment financing (TIF).
- TIF AREA EXPANSION: Removes the requirement that the IEDC approve enlargements of tax increment financing districts.
- Deletes the prohibition for the Wabash River Enhancement Corporation from using any of its Tippecanoe County innkeeper's tax distributions for employee salaries or other ongoing administrative or operating costs.
- Changes the Lake County innkeepers tax to add members to the convention and visitor bureau in Lake County, to specify that the tax applies to the renting or furnishing of rooms for periods of less than 30 days and by the same party in the same room, to authorize the deposit of innkeepers' tax revenue into funds established by the convention and visitor bureau, and to change the budget and financial reporting deadline.
- Changes the membership of the Clark County and Floyd County special funds board of managers, specifies that the open door and public record laws apply to the board of managers, and requires the publication of financial information and an annual report.
- Provides that recipients of Clark County and Floyd County innkeeper's tax revenues are required to submit a report to the board of managers when requested by the board of managers.
- Authorizes the county council of White County to increase the county's innkeeper's tax rate to not more than 5% to be used to promote conventions, tourism, and economic development in the county.
- Extends the Nashville food and beverage tax to 2022.
- PRICE PREFERENCE: Provides a price preference to local Indiana businesses bidding on purchasing and public works contracts awarded by political subdivisions.

Public Official Bonding (HEA 1024 P.L. 117-2011)

Author: Matt Lehman

Sponsor: Travis Holdman

- Removes a requirement that the insurance producer's contact information be included in written notice concerning a change in a residential policy and requires that the notice indicate that the insurance producer or insurer may be contacted concerning the change.
- Exempts coverage for certain motor vehicles used for authorized purposes in connection with a commercial policy from the law requiring an insurer to make available uninsured and underinsured motorist coverage.
- Requires an insurer to provide a written notice of residential policy cancellation in a foreclosure action under certain circumstances.
- Requires the creditor in a residential property foreclosure action to send a copy of the complaint to the insurance company of record.

Homeowners Associations (HEA 1058 P.L. 49-2011)

Author: Dale Cheatham

Sponsor: Richard Bray

- Authorizes the attorney general to bring an action against the board of directors of a homeowners association or individual members of a homeowners association if the attorney general makes certain findings.
- Provides for judicial remedies for violations of the statute governing homeowners associations.

Sale of Real Property by Local Government (HEA 1174, P.L. 188-2011)

Author: Woody Burton

Sponsor: Greg Walker

- Provides that a local government disposing agent may hire a broker to sell real property directly rather than using the bid process if: (1) the disposing agent publishes a notice of the determination to hire the broker; and (2) the property has been up for bid for at least 60 days before the broker is hired, and either no bids were received or the disposing agent has rejected all bids that were received. Provides that a political subdivision may sell real property to an abutting landowner without using a competitive bid process if the real property has not been assessed and the property was previously part of a public right-of-way.
- Allows a local government disposing agent to sell real property for less than 90% of the appraised value as determined by the average of the two appraisals of the property (instead of as determined by a joint appraisal of the property). Allows a local government disposing agent to sell real property for purposes of an economic development project or to facilitate compatible land use planning for a value that is not less than the appraised value as determined by the average of the two appraisals (instead of as determined by a joint appraisal of the property), if the agent publishes notice of the amount of the offer to be accepted.
- Allows a local government disposing agent to lease real property for a value that is less than 90% of the appraised fair market rental as determined by the average of the two appraisals (instead of as determined by a joint appraisal of the

- property), if the agent publishes notice of the amount of the bid to be accepted. Provides that if the disposing agent rejects all offers or bids, the agent must make a written determination for the rejection and explain why the bids or offers were rejected.
- Provides that a sale or transfer of property constituting a public easement or right of way under the statutes governing disposal of property by local government does not deprive a public utility of the use of the public easement or right of way if, at the time of the sale or transfer, the public utility is occupying and using all or part of that public easement or right of way for the location and operation of its facilities.

Public Works Projects (HEA 1216, P.L. 195-2011)

Author: Bill Davis

Sponsor: Dennis Kruse

- Provides that the state president of the Associated Builders and Contractors of Indiana appoints a member of a common construction wage committee currently appointed by the governor. Raises the threshold for the application of the common construction wage statute from \$150,000 to \$250,000 for contracts awarded after December 31, 2011, and before January 1, 2013, and to \$350,000 for contracts awarded after December 31, 2012.
- Provides that a committee must consider any written reports with respect to wage scales submitted by the Indiana State Building and Construction Trades Council or the Associated Builders and Contractors of Indiana when making a determination of the common construction wage for a public works project.
- Provides that a public works project may not be artificially divided to avoid application of the common construction wage statute.
- Urges the legislative council to assign the following topics to a study committee during the 2011 legislative interim: (1) The use of an agreement with a labor organization on public works projects covered by a public works statute. (2) Job classifications used in a common construction wage determination. Makes technical changes.

Advocacy with Public Funds (HEA 1238 P.L. 198-2011)

Author: Cindy Noe

Sponsor: Ed Charbonneau

- Multiple effective dates.
- Provides that a political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of the petition and remonstrance process. (Under current law, such a prohibition applies under the capital projects referendum statutes.)

- Provides that the ballot language for a capital project referendum must first be approved by the department of local government finance (DLGF). (Under current law, the DLGF makes recommendations concerning the ballot language.)
- Provides that advocacy or discussion by certain officials concerning a petition and remonstrance or referendum is allowed and is not considered a use of public funds.
- Provides that an official of a political subdivision who is authorized to discuss or advocate for or against a petition or remonstrance or a referendum may be assisted by an employee of the political subdivision.
- Removes the county fiscal body from the school referendum levy process. Provides that the county fiscal body is not required to certify the referendum question.

Numerous Changes to Planning and Zoning Law (HEA 1311, P.L. 126-2011)

Author: Randy Truitt

Sponsor: Tom Wyss

- Eliminates review of zoning decisions by certiorari, and establishes a judicial review procedure.
- Provides procedures for vacation of a plat, including any recorded covenants.
- Allows a plan commission to adopt a rule to limit further consideration for up to one year after its disapproval of a plat or vacation request. Allows a plan commission (or plat committee acting in its behalf) to: (1) grant waivers from the subdivision control ordinance; and (2) allow or require a commitment to be made as a condition of granting a waiver.
- Makes changes regarding: (1) qualifications of citizen members of plan commissions and boards of zoning appeals; (2) appointment of alternate members to all plan commissions (current law allows only an area plan commission to appoint alternate members); (3) disqualification of plan commission and board of zoning appeals members due to financial interest or bias; (4) publication of the zoning ordinance; and (5) commitments and conditions.
- Makes other changes to the planning and zoning law. Repeals superseded statutes concerning vacation of plats, commitments, and writ of certiorari.

Minimum Wage Required by Local Unit (HEA 1538 P.L. 211-2011)

Author: Mike Speedy

Sponsor: Scott Schneider

- Prohibits a local unit of government (unit) from establishing, mandating, or requiring a minimum wage that exceeds the state or federal minimum wage unless federal or state law provides otherwise. Allows a unit to establish wage rates in a contract to which the unit is a party.

Regulation of Residential Leases (HEA 1543 P.L. 212-2011)

Author: Mike Speedy

Sponsor: Travis Holdman

- Provides that the owner of a rental unit assessed any inspection, registration, or other fee by a political subdivision pertaining to the rental unit may: (1) notify the tenants of the rental unit of the assessment of the fee; and (2) require the tenants of the rental unit to reimburse the owner for the payment of the fee.
- Provides that tenants of a rental unit may not be required to reimburse the owner of a rental unit for fees assessed by a political subdivision relating to the construction of the rental unit, such as building permit fees.
- SEPARATE FUND PROVISION: Requires the political subdivision to maintain the fees collected in a special non-reverting fund dedicated solely to reimbursing the costs reasonably related to services actually performed by the political subdivision that justified the imposition and amount of the fee.

Local Government Reorganization and Merger (SEA 26 P.L. 58-2011)

Author: Randy Head

Sponsor: Randy Truitt

- Requires the department of local government finance (DLGF) to develop criteria for making an adjustment to allow a political subdivision to retain a part of its levy and budget that would otherwise be reduced because of savings: (1) from a government reorganization or township merger; (2) from the transfer, combination, or sharing of powers, duties, functions, or resources under an interlocal cooperation agreement; or (3) from the combination or reorganization of the political subdivision's departments, agencies, or functions.
- Provides that the amount of such an adjustment may not exceed a specified percentage of the savings or reduction realized in the first full year of operation after the merger or reorganization or the transfer, combination, or sharing of powers, duties, functions, or resources.
- Provides that the percentage is 50% in the first year of the adjustment and phases down to 10% in the fourth year of the adjustment and thereafter.
- Provides that the fiscal body of the political subdivision shall determine and certify to the DLGF the amount of the adjustment that the political subdivision wishes to accept.
- Specifies that in the case of a reorganization under the government reorganization statutes, the amount of any adjustment accepted by a reorganized political subdivision must comply with the reorganization agreement.

Local Regulation of Video Service Franchises (SEA 54 P.L. 59-2011)

Author: Travis Holdman

Sponsor: Ed Soliday

- Directs the regulatory flexibility committee (committee) to study the following not later than November 1, 2011: (1) Whether video service franchise fees paid to local units are used by local units for purposes related to the provision of video service in the units and in a manner consistent with the statute concerning video

service franchises. (2) Whether video service franchise fees have an anti competitive effect on the pricing and provision of video service in Indiana.

- Requires the committee to submit to the legislative council not later than November 1, 2011, a report on any recommendations made by the committee concerning these topics.

Local Government Issues (SEA 60 P.L. 139-2011)

Author: Connie Lawson

Sponsor: Ed Soliday

- Multiple effective dates.
- Provides that one executive session per calendar year may be held under the open door law to train members of a board of aviation commissioners or an airport authority board with an outside consultant about the performance of the role of the members as public officials.
- Specifies that the statutes governing public work projects by political subdivisions apply to contracts by a board of aviation commissioners or an airport authority board.
- Provides that an airport authority board may provide aviation services to public use airports within or outside Indiana either directly or through an affiliate entity established by the board.
- Provides that for purposes of the local public works statutes, bids may be opened after the time designated if: (1) the political subdivision makes a written determination that it is in the best interest of the political subdivision to delay the opening; and (2) the day, time, and place of the rescheduled opening are announced at the day, time, and place of the originally scheduled opening. Changes the membership of the board of the Indianapolis airport authority. Reduces the number of members appointed by the mayor of the consolidated city from six members to five members.
- Provides for the majority leader of the city- county council to appoint a member currently appointed by the county commissioners from one of the townships in which the airport is located. Increases the number of voting members by one member. Provides that the term of office of the member appointed by the county commissioners expires January 1, 2012. Provides that the appointment by the majority leader of the county legislative body is effective January 1, 2012. Provides that the individual appointed by the county commissioners and whose term expires January 1, 2012, may be reappointed by any public official who has appointment authority after December 31, 2011.

Unemployment Benefits (SEA 86 P.L. 12-2011)

Author: Jean Leising

Sponsor: Dan Leonard

- Multiple effective dates; some retroactive.
- Specifies the conditions for the payment of extended unemployment benefits after March 1, 2011.

- Requires that a drug test used for unemployment purposes be performed at a United States Department of Health and Human Services certified laboratory, with specimen collection performed by a collector certified by the United States Department of Transportation, and that the cost of the drug test be paid by the employer. Provides that an individual is considered to have refused an offer of suitable work if the individual: (1) tests positive for drugs after; or (2) refuses without good cause to submit to; a drug test required by a prospective employer as a condition of an offer of employment.
- Specifies the conditions under which a drug test is positive for purposes of the unemployment insurance system. Prohibits the admission of department of workforce development (department) records concerning the results of a drug test against a defendant in a criminal proceeding.

Tax Liens (SEA 155 P.L. 99-2011)

Author: Brent Steele

Sponsor: Ralph Foley

- Requires the department to release a judgment if: (1) it has been fully satisfied; or (2) the tax assessment or issuance of the tax warrant was erroneous.
- Provides that a tax lien on real property is void if the person owing the tax provides written notice to the department to file an action to foreclose the lien, and the department fails to file an action to foreclose the lien not later than 180 days after receiving the notice.
- Permits a sheriff to collect the outstanding tax liability if the taxpayer has taken an action to foreclose the lien.
- Specifies that a complaint to foreclose a homeowners association lien may not be filed earlier than 90 days after recording, unless a person files a notice to foreclose the lien, or another person files an action to foreclose the property that is the subject of the lien.

Official Misconduct (SEA 217 P.L. 102-2011)

Author: Richard Bray

Sponsor: Eric Koch

- Specifies that a public servant commits official misconduct if the public servant knowingly or intentionally commits a crime in the performance of the public servant's official duties.

Local Development Agreements (SEA 325 P.L. 82-2011)

Author: Mike Delph

Sponsor: Jud McMillin

- Effective upon passage.
- Provides for the Indiana gaming commission's regulation of local development agreements.

Land Surveyors (SEA 374 P.L. 83-2011)

Author: Phil Boots

Sponsor: Greg Steuerwald

- Allows a licensed land surveyor and any personnel under the supervision of a land surveyor to enter any land, water, or property within Indiana, except for: (1) land owned or controlled by the department of homeland security or a public utility (including a municipal utility); or (2) a building , dwelling, or structure on the land or property; to conduct a survey.
- Requires, to the extent practicable, a land surveyor or any personnel under the supervision of a land surveyor to present written identification to the occupant of the land, water, or property before a land surveyor or any personnel under the supervision of a land surveyor enters the land, water, or property.
- Makes a land surveyor and any personnel under the supervision of a land surveyor liable for damage caused by the entry.

Disclosure of firearm or ammunition information (SEA 411 P.L. 17-2011)

Author: Johnny Nugent

Sponsor: Sean Eberhart

- Provides that a civil action may be brought against a public or private employer that has: (1) required an applicant for employment or an employee to disclose information under certain circumstances about whether the applicant or employee owns, possesses, uses, or transports a firearm or ammunition; or (2) conditioned employment, or any rights, benefits, privileges, or opportunities offered by the employment, upon an agreement that the applicant for employment or the employee forgo the otherwise lawful ownership, possession, storage, transportation, or use of a firearm or ammunition. Provides that a governmental entity may not restrict the possession of a firearm at a person's residence during a declared emergency.

Common Construction Wage (SEA 418, P.L. 18-2011)

Author: Dennis Kruse

Sponsor: Bill Davis

- Provides that the committee established in a county to determine the common construction wage for the county does not need to meet more often than once every three months and that the common construction wage determined at a meeting applies to all public works contracts awarded within the three months following the meeting. (Currently the committee must meet for each project.)
- Requires the committee to establish wages for all classifications that a county may need during the following three months.
- Requires that a new committee meet to establish wages for projects that require classifications not included on the three-month wage scale.

- Removes a requirement that the department of workforce development must provide reports for each meeting of the committee.

Depository Rule (SEA 464 P.L. 107-2011)

Author: Richard Bray

Sponsor: Ralph Foley

- Defines "public servant", and substitutes "public servants" for "public officers" with respect to certain duties and obligations concerning public funds.
- Makes knowingly or intentionally failing to properly deposit public funds a Class A misdemeanor, and increases the penalty to a Class D felony if the amount involved is at least \$750 and to a Class C felony if the amount involved is at least \$50,000. (The offense is currently a Class B felony.) Repeals a conflicting provision.

Design-Build Public Works Projects (SEA 533 P.L. 166-2011)

Author: Ryan Mishler

Sponsor: Mark Messmer

- Provides that a public agency may not require an offeror to appear in person more than three times before the technical review committee for a design-build contract.
- Requires a public agency that proposes a public project for which a referendum is to be held to wait until after the referendum is completed to issue a request for proposals for the public project.
- Limits the deliverables required for a qualitative proposal submitted in response to a request for proposals.
- Repeals the provision in current law requiring the governing body of a public agency to give prior authorization to use design-build contracting.
- Amends the definition of "public agency" to include conservancy districts established for water supply or sewage treatment. Amends the definition of "public project" to include improvements other than buildings. Provides that the meetings of a technical review committee for a public project comprised entirely of employees of the public agency undertaking the public project are not open to the public.
- Allows a state educational institution to use the combined request for qualifications and request for proposals for all design-build projects (combined request procedure).
- Allows a public agency other than a state educational institution to use the combined request procedure for public projects having an initial estimated cost that does not exceed \$5,000,000.
- Provides that a technical review committee must give a written comprehensive score for each qualitative proposal received in response to a request for proposals, which includes: (1) an explanation of the scoring methodology; (2) for each factor used in determining the composite score of the qualitative proposal, the scores

awarded by each member of the technical review committee, the resulting technical review committee score, and the resulting weighted score, if applicable; and (3) the composite score calculated for the qualitative proposal.

Criminal Conflict of Interest (SEA 559, P.L. 110-2011)

Author: Richard Bray

Sponsor: Eric Koch

- Specifies certain definitions and defenses that apply to the crime of conflict of interest.

Worker's Compensation (SEA 576, P.L. 168-2011)

Author: Phil Boots

Sponsor: Matt Lehman

- Multiple effective dates.
- Requires that all members of the worker's compensation board (board) be attorneys in good standing admitted to the practice of law in Indiana.
- Requires a health care provider to file a claim for payment with the board not later than two years after the provider receives an initial written communication from an employer, the employer's insurance carrier, or an agent acting on behalf of the employer in response to the provider's submission of a bill for services. Requires a hospital or facility that is a medical service provider to pay a \$60 filing fee for each application filed in a balance billing case.
- Provides that a filing fee is not required for an application filed for a denied or unpaid claim.
- Allows a provider to combine up to 10 individual claims into one application whenever all of the individual claims involve the same employer, insurance carrier, or billing review service, and the amount of each individual claim does not exceed \$200.
- Allows the second injury fund to be used to pay certain fund liabilities.
- Authorizes the board to resolve claims using mediation. Requires an employer to provide a copy of an injury or disablement report to the board upon request.
- Requires an injury or disablement report within seven days after the first day of a disability arising from a work place injury or disablement by occupational disease (rather than the occurrence of the injury or disablement).
- Increases civil penalties for failure to: (1) post certain notices; (2) file certain records; or (3) comply with IC 22-3-3-7 or IC 22-3-7-16 (concerning the determination and payment of compensation or benefits).
- Establishes a civil penalty of \$50 per employee per day for an employer's failure to provide proof of coverage. Requires the board to waive a civil penalty assessed whenever an employer provides proof of coverage by the twentieth day after the board provides written notice of the employer's failure to provide evidence of the coverage.
- Allows the board, after notice and a hearing, to post on the board's web site the name of an employer who fails or refuses to provide proof of coverage or pay a

civil penalty assessed for the failure or refusal to provide coverage. Provides that an employer's name may not be removed from the board's web site until the employer provides proof of coverage and pays the civil penalties assessed.

- Requires that civil penalties be deposited in the worker's compensation supplemental administrative fund, instead of the state general fund. Increases criminal penalties for an employer's failure to insure or otherwise provide adequate security for the employer's worker's compensation and occupational disease liabilities and for violating any other worker's compensation or occupational disease laws.
- Provides that a court may temporarily order an employer that fails or refuses to pay worker's compensation or occupational disease benefits when due to cease doing business until the employer furnishes to the board proof of insurance or other assurances to establish that the employer has the ability to meet all worker's compensation and occupational disease liabilities.
- Allows the owner of a sole proprietorship who is an independent contractor and does not elect worker's compensation and occupational disease coverage to obtain a certification of exemption.

Illegal Immigration Matters (SEA 590, P.L. 171-2011)

Author: Dennis Kruse

Sponsor: Eric Koch

- Makes various changes concerning enforcement of federal immigration laws, illegal immigration, and related criminal matters.
- Requires the office of management and budget to calculate the costs of illegal aliens to Indiana and make a written request to the Congress of the United States to reimburse the state for those costs.
- Prohibits governmental bodies from limiting or restricting: (A) certain actions by other governmental bodies with regard to information of the citizenship or immigration status of an individual; and (B) the enforcement of federal immigration laws to less than the full extent permitted by federal law. Allows certain persons to bring an action to compel a governmental body to comply with these provisions.
- Prohibits a law enforcement agency or law enforcement officer from requesting verification of the citizenship or immigration status of an individual from federal immigration authorities if the individual has contact with the agency or officer only as a witness to or a victim of a crime or for purposes of reporting a crime.
- Disallows certain state income tax credits and deductions for individuals who are prohibited from being hired as employees, unless the employer participated in the E-Verify program.
- Requires the department of correction to verify the citizenship or immigration status of criminal offenders.
- Requires an agency or political subdivision to verify the eligibility of an individual who applies for federal, state, or local public benefits.
- Requires the department of workforce development (DWD) to verify the status of an individual as a qualified alien through the Systematic Alien Verification for

Entitlements program to determine the individual's eligibility for unemployment compensation benefits.

- Authorizes DWD to file civil actions to obtain the reimbursement of amounts paid as unemployment insurance benefits from employers that knowingly employed unauthorized aliens.
- Requires state agencies, political subdivisions, contractors with public contracts for services with the state or a political subdivision, and certain business entities to use E-Verify. Requires certain subcontractors to certify that they use E-Verify.
- Allows a state agency or political subdivision to terminate a public contract for services with a contractor for breach of the public contract for services if the contractor knowingly employs an unauthorized alien.
- Prohibits individuals from commencing day labor without completing an attestation required under federal law. Requires probable cause before a law enforcement officer may submit a complaint to the United States Customs and Immigration Enforcement office concerning violations of required federal attestations related to day labor.
- Establishes certain state crimes, including: (A) offenses related to consular identification; (B) false identity statement; (C) knowingly or intentionally transporting or moving an alien, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of the law; and (D) knowingly or intentionally concealing, harboring, or shielding from detection an alien in any place, including a building or means of transportation, for the purpose of commercial advantage or private financial gain, knowing or in reckless disregard of the fact that the alien has come to, entered, or remained in the United States in violation of law.
- Requires law enforcement officers to impound motor vehicles for violations of crimes related to moving, transporting, concealing, harboring, or shielding from detection aliens.
- Allows a law enforcement officer to arrest a person if the officer has a certain removal order, detainer, or notice of action issued for the person or if the officer has probable cause to believe the person has been indicted for or convicted of one or more certain aggravated felonies.
- Requires a judicial officer in setting bail to consider that the defendant is a foreign national who has not been lawfully admitted to the United States as relevant to the risk of nonappearance.
- Establishes certain bond requirements if bail is set for a defendant who is a foreign national unlawfully present in the United States.
- Urges the legislative council to: (A) assign to an existing study committee certain topics concerning immigration; and (B) urge the study committee to consult with the lieutenant governor on the topics.

Community and Economic Development

State and Local Administration (HEA 1004 P.L. 172-2011)

Author: Eric Turner

Sponsor: Luke Kenley

- Multiple effective dates.
- Requires the auditor of state to work with the office of technology and other state agencies to post on the Indiana transparency Internet web site a data base of state expenditures and fund balances and property owned by the state.
- Requires the commission for higher education to establish a web site where members of the public may view financial and other reports to a state agency that are public records. Requires information concerning local governments and local schools to be on the web site.
- Makes the economic development study committee a four year committee that expires December 31, 2014, and provides for certain studies.
- Requires the Indiana economic development corporation (IEDC) to collaborate with local economic development organizations and submit an annual report to the study committee regarding collaboration.
- Requires the state board of education, the commission for higher education, and the department of workforce development to work together to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.
- Requires the IEDC to conduct a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana.
- Decreases the corporate income tax rate from 8.5% to 6.5% over four years.
- Provides that the adjusted gross income tax and financial institutions tax (for investment companies) apply to interest on state and local bonds that are issued by a state other than Indiana, or a political subdivision of such a state, and that are acquired by the taxpayer after December 31, 2011.
- Provides that in the case of a county that becomes a member of a regional development authority (other than the northwest Indiana regional development authority) after June 30, 2011, and before July 1, 2013, the county may impose an additional county economic development income tax at a rate of 0.025% (rather than 0.05%, under current law).
- Allows counties that are more than two years behind on issuing tax bills to petition the department of local government finance to postpone the deadline for paying the first installment on a 2011 provisional property tax statement.
- Extends the time in which the city of Marion, a second class, or the city of Westfield may establish a professional sports development area. (18) Permits a person who received an overpayment of unemployment compensation to repay the excess over 36 months.
- Removes and repeals restrictions on activating a third community revitalization enhancement district in Delaware County and claiming tax credits for investments

in the third district. Provides new criteria for designating a community revitalization enhancement district after 2010.

- Increases the maximum amount of income tax credits available under the venture capital investment tax credit from \$500,000 to \$1,000,000. Extends from 2013 to 2015 the end date for investments eligible for the venture capital investment tax credit. Suspends, for two years, the application fee for applicants seeking certification for the venture capital investment tax credit.
- Eliminates an advanced earned income tax credit.
- Permits local governments to pledge revenue from the county adjusted gross income tax and the county economic development income tax for redevelopment financing.
- Sets certain state credits to expire.
- FIRE TERRITORIES: Indicates that the delivery of services through a fire protection territory is not considered a municipal service for zoning outside the boundaries of the municipality. Specifies that a member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to join or establish a fire protection territory if that member is also an employee of a participating unit or of another unit that is proposing to become a participating unit. Specifies that different tax rates may be levied for the participating units included within the territory. Specifies additional actions in order to become part of a fire protection territory and sets these additional requirements to expire on July 1, 2012. Requires the DLGF to review the tax rates and levies for each fire protection territory that is located in Hancock County and consider adjusting tax levies for participating units and whether different tax rates for fire protection services should be applied for the participating units included within the territory.
- PUBLIC SAFETY LOIT: Provides that a fire department, volunteer fire department, or emergency medical services provider may apply to the county to receive a distribution of the public safety local option income tax (LOIT) tax revenue before the remainder of the tax revenue is distributed to the county and to the municipalities in the county. Specifies that a municipality is entitled to receive a distribution of public safety LOIT revenue only if the municipality is providing public safety services.
- IACT INITIATIVE: Increases the cost of projects that may be performed without awarding a public works contract. Requires certain public works contract provisions for a public works project of more than \$1,000,000. Specifies notice and public meeting requirements that must be satisfied in certain circumstances before a public work project may be performed by the workforce of a municipality, county, state agency, or state educational institution. Adds requirements for examination reports prepared by the state board of accounts concerning certain public work projects.
- IACT INITIATIVE: Increases the cost threshold at which bids and quotes are required under the local public works statute to \$150,000.
- Provides that the circuit breaker credit and certain property tax deductions are to be allowed in the year of a property transfer if the property is determined to be exempt in the year following the transfer year.

- Allows the DLGF to cancel any property taxes assessed against real property owned by a local port authority.
- Prohibits the DLGF from approving a budget until a taxing unit files a financial report with the state board of accounts in the immediately preceding year. Corrects a reference to the date of the 2015 general reassessment.
- Establishes a procedure for a taxpayer to appeal an error in a circuit breaker or other property tax credit.
- Changes the methodology for certain property tax levy and rate determinations after a reassessment.
- Specifies that the full amount of property taxes imposed after being approved in a referendum shall be deposited in the fund for which the property taxes were imposed without reduction for the circuit breaker credits granted to taxpayers.
- Provides that property taxes on property consisting primarily of onsite regulated amusement devices and related improvements may be allocated for purposes of tax increment financing (TIF).
- TIF AREA EXPANSION: Removes the requirement that the IEDC approve enlargements of tax increment financing districts.
- Deletes the prohibition for the Wabash River Enhancement Corporation from using any of its Tippecanoe County innkeeper's tax distributions for employee salaries or other ongoing administrative or operating costs.
- Changes the Lake County innkeepers tax to add members to the convention and visitor bureau in Lake County, to specify that the tax applies to the renting or furnishing of rooms for periods of less than 30 days and by the same party in the same room, to authorize the deposit of innkeepers' tax revenue into funds established by the convention and visitor bureau, and to change the budget and financial reporting deadline.
- Changes the membership of the Clark County and Floyd County special funds board of managers, specifies that the open door and public record laws apply to the board of managers, and requires the publication of financial information and an annual report.
- Provides that recipients of Clark County and Floyd County innkeeper's tax revenues are required to submit a report to the board of managers when requested by the board of managers.
- Authorizes the county council of White County to increase the county's innkeeper's tax rate to not more than 5% to be used to promote conventions, tourism, and economic development in the county.
- Extends the Nashville food and beverage tax to 2022.
- PRICE PREFERENCE: Provides a price preference to local Indiana businesses bidding on purchasing and public works contracts awarded by political subdivisions.

Industrial Recovery Tax Credit (HEA 1005 P.L. 113-2011)

Author: Ed Clere

Sponsor: Brandt Hershman

- Effective January 1, 2011 (retroactive).
- Makes certain changes to the industrial recovery tax credit.
- Reduces, for purposes of qualifying for the credit, the number of years, from 20 to 15, in which a vacant industrial facility must have been in service and from two years to one year the time that a facility must be vacant.
- Reduces the minimum amount of floor space that a vacant industrial facility may have to qualify for the credit from 250,000 square feet to 50,000 square feet, for taxable years beginning after December 31, 2010, and beginning before January 1, 2015; 100,000 square feet, for taxable years beginning after December 31, 2014.

State and Local Administration (HEA 1007 P.L. 173-2011)

Author: Mark Messmer

Sponsor: Dennis Kruse

- Multiple effective dates; some retroactive.
- Extends the period of time in which a county, city, or town may provide a tax exemption for enterprise information technology equipment until January 1, 2017. (Current law permits the exemptions until January 1, 2013.)
- Permits a city, town, or county to enhance property tax abatement schedules to allow up to three years of 100% abatement if the business meets one of the following criteria: (1) locates in a large vacant building; (2) agrees to invest at least \$10 million in the community; (3) rehabilitates and occupies property in designated downtown areas; or (4) locates in a county with high unemployment.
- Authorizes local entities to develop alternative methods for determining the duration and amount of property tax abatements.
- Authorizes cities and counties to pay hiring incentives for new employment in their jurisdictions. Requires hiring incentives to be paid from local option income taxes received by the city or county. Provides that the hiring incentives may not exceed the local option income taxes paid by the new employees.

Renewable Energy Resources (HEA 1128 P.L. 224-2011)

Author: Eric Koch

Sponsor: Beverly Gard

- Provides that the following qualify as a renewable energy resources for purposes of the statute that provides financial incentives for clean coal and energy projects: (1) Certain resources that qualify as clean energy resources for purposes of the statute governing the voluntary clean energy portfolio standard program .(2) Low temperature, oxygen starved gasification of municipal solid waste. (3) Methane recovered from landfills for the production of electricity.

Microenterprise Partnership Program (HEA 1192 P.L. 87-2011)

Author: Bob Heaton

Sponsor: Dennis Kruse

- Multiple effective dates.
- Transfers administration of the microenterprise partnership program from the Indiana economic development corporation to the Indiana housing and community development authority.
- Renames the "microenterprise partnership program fund" administered by the Indiana economic development corporation as the "small business development fund."
- Creates a new microenterprise partnership program fund under administration of the Indiana housing and community development authority. Repeals the law concerning the microenterprise partnership program administered by the Indiana economic development corporation.

Young Entrepreneur Program (HEA 1251 P.L. 4-2011)

Author: Sue Ellspermann

Sponsor: Richard Young

- Requires the Indiana economic development corporation (IEDC) to establish a young entrepreneurs program to promote the business proposals of students in entrepreneurial programs at state educational institutions.
- Provides that the program must include at least one auction per year in which communities bid for the opportunity to locate a young entrepreneur's start-up business in their community.
- Requires the office of community and rural affairs to assist rural communities in preparing for an auction.

Referendum Taxes Imposed in Allocation Area (HEA 1313 P.L. 203-2011)

Author: Randy Truitt

Sponsor: Connie Lawson

- Multiple effective dates; some retroactive.
- Provides that tax increment revenues for a tax increment financing (TIF) allocation area do not include property taxes that are imposed after being approved by the voters in a referendum or local public question.

Courts

Various Provisions Concerning Courts (HEA 1266 P.L. 201-2011)

Author: Steve Stemler

Sponsor: Richard Bray

- Multiple effective dates.
- Changes the expiration date of the commission on courts from June 30, 2011, to June 30, 2015.
- Provides that all circuit courts, superior courts, and probate courts have: (1) original and concurrent jurisdiction in all civil cases and in all criminal cases; (2) de novo appellate jurisdiction of appeals from city and town courts; and (3) in Marion County, de novo appellate jurisdiction of appeals from township small claims courts.
- Repeals the law concerning the establishment and operation of county courts. (Since January 1, 2009, no county court exists in Indiana.)
- Repeals or otherwise removes all provisions that establish a mandatory retirement age for superior court and county court judges.
- Establishes a unified circuit court for Clark County by combining the current judge of the Clark circuit court and the three judges of the Clark superior court into a unified circuit court with four judges. Specifies that the Clark superior court judges serving on December 31, 2011, serve as judges of the unified circuit court beginning January 1, 2012. Transfers all cases and other matters pending in the Clark superior court at the close of business on December 31, 2011, to the unified circuit court on January 1, 2012. Repeals provisions concerning the establishment and operation of the Clark superior court.
- Establishes a unified circuit court for Madison County by combining the current judge of the Madison circuit court and the five judges of the Madison superior court into a unified circuit court with six judges. Specifies that the Madison superior court judges serving on June 30, 2011, serve as judges of the unified circuit courts beginning July 1, 2011. Transfers all cases and other matters pending in the Madison superior court at the close of business on June 30, 2011, to their respective circuit courts on July 1, 2011. Repeals provisions concerning the establishment and operation of the Madison superior court.
- Establishes a unified circuit court for Henry County by combining the current judge of the Henry circuit court and the two judges of the Henry superior court

- into a unified circuit court with three judges. Specifies that the Henry superior court judges serving on June 30, 2011, serve as judges of the unified circuit court beginning July 1, 2011. Transfers all cases and other matters pending in the Henry superior court at the close of business on June 30, 2011, to the circuit court on July 1, 2011. Repeals provisions concerning the establishment and operation of the Henry superior court.
- Provides for the four judges of the Lake superior court county division to be: (1) nominated by the Lake County superior court judicial nominating commission and appointed by the governor; and (2) subject to the question of retention or rejection by the Lake County electorate every six years. (Current law provides that the judges of the Lake superior court county division are elected by the electorate of Lake County every six years.) Repeals provisions concerning elected judges of the county division.

Environmental

Land Application of Industrial Waste Products (HEA 1112 P.L. 223-2011)

Author: Phyllis Pond

Sponsor: Beverly Gard

- Requires the commissioner of the department of environmental management (department) to approve or deny an application for a permit: (1) concerning the land application of a material; or (2) for marketing and distribution of a biosolid or an industrial waste product; within 180 days after receiving the application.
- Provides that the department and the environmental rulemaking boards may allow a person to use industrial waste products in a land application operation or as ingredients in a soil amendment or soil substitute to be land applied under certain circumstances.
- Provides that the department may allow the use of industrial waste products in a land application operation or as ingredients in a soil amendment or soil substitute to be land applied on the same basis as other materials under the rules concerning land application and marketing and distribution permits.
- Imposes a fee that may not exceed the costs incurred by the department to issue the permit.
- Prohibits the department from: (1) discriminating against the use of industrial waste products on the basis that the industrial waste products lack biological carbon; (2) imposing requirements beyond criteria found in the applicable water pollution control board rules, unless necessary for protection of human health and the environment; (3) requiring that the finished soil amendment, soil substitute, or material to be land applied must be of a particular economic value; or (4) for certain pollutants subject to an established pollutant limit or concentration, requiring that an industrial waste product or the finished soil amendment, soil substitute, or material to be land applied satisfies: (a) the department's risk integrated system of closures nonrule policy document; or (b) any other standards other than criteria found in rules adopted by the water pollution control board

concerning land application of biosolids, industrial waste products, and pollutant-bearing water.

- Requires the department, in the case of a pollutant present in industrial waste products that does not have an established pollutant limit or concentration, to weigh the benefits of a finished soil amendment, soil substitute, or material to be land applied against the risks to human health and the environment.
- Allows the department to require that a permit application for industrial waste products includes characterization of individual waste stream at the point of generation before mixing with other waste streams.

Immunity for Certain Surficial Activities (HEA 1200 P.L. 6-2011)

Author: Bill Davis

Sponsor: Allen Paul

- Provides that, subject to certain conditions, a person who: (1) owns or otherwise legally possesses real property that is not more than one acre in size; and (2) only installs pavement or another hard surface or landscaping and other surficial plantings on the surface of the real property; does not incur any additional liability for those paving or landscaping activities under the environmental management laws for costs or damages associated with the presence of a hazardous substance, a contaminant, petroleum, or a petroleum product that is located beneath the surface of the real property.

Storm Water Management (HEA 1291 P.L. 125-2011)

Author: Milo Smith

Sponsor: Beverly Gard

- Provides that a municipality is not liable for the investigation, assessment, or opinion offered by the city board of works, town council, or designee in connection to storm water nuisances.
- Establishes an alternative dispute process for dealing with storm water nuisance complaints. Provides that the person seeking the removal of a storm water nuisance may file a request with a designated unit of government to investigate and make an assessment of the alleged problem.
- Allows a local unit to adopt an ordinance to charge a fee to recover the costs associated with the process.
- Requires the unit of government designee to provide an oral or written report pertaining to the assessment and alternative dispute resolution information.
- Establishes certain limitations in the applicability of the storm water nuisance investigation or assessment. Provides that an artificial conveyance or runoff operating in compliance with a permit issued by a political subdivision is not subject to the provisions related to the alternative dispute process dealing with storm water nuisance complaints.
- Requires a person who lays out commercial, industrial, or other land developments outside the corporate boundaries of a municipality to submit drainage plans and specifications to a county drainage board. Establishes that

"development", for purposes of a drainage plan submitted to a county drainage board, does not include public or municipally owned utility infrastructure.

Environmental General Permits (SEA 200 P.L. 81-2011)

Author: Beverly Gard

Sponsor: David Wolkins

- Multiple effective dates.
- Allows the department of environmental management (IDEM) to develop and issue NPDES general permits under federal law.
- Establishes transitional provisions for current NPDES general permits authorized by rule. Requires IDEM to conduct an antidegradation review of all NPDES general permits. Provides that IDEM may modify the general permits for purposes of antidegradation compliance.
- Provides that after an antidegradation review of a permit is conducted, activities covered by an NPDES general permit are not required to undergo an additional antidegradation review.
- Requires IDEM to establish a general coal mine permit that may be obtained for a facility instead of obtaining another more specialized NPDES coal mine permit and to determine the criteria that must be met to qualify for the general permit.
- Provides that the general permit must allow a coal mine operator the option of submitting a notice of intent to be governed by the general permit requirements before the requirements apply to the coal mine operator.
- Requires persons regulated by a national pollutant discharge elimination systems (NPDES) general permit to submit a notice of intent within ninety (90) days after the department of environmental management makes the form available.

Environmental Legal Action Statute of Limitations (SEA 346 P.L. 154-2011)

Author: Beverly Gard

Sponsor: David Wolkins

- Effective upon passage.
- Specifies the statute of limitations for: (1) an environmental legal action; and (2) an action for a contribution to pay for corrective action related to a release from an underground storage tank.
- Prohibits a person from reviving or raising new claims in an action that was finally adjudicated or settled prior to the effective date of the statute of limitations.
- Specifies that a person who brings an action prior to the effective of the statute of limitations for an environmental legal action may not amend the action or bring a new action based on the establishment of the statute of limitations.

Underground Storage Tank Issues (SEA 347 P.L. 105-2011)

Author: Beverly Gard

Sponsor: David Wolkins

- Multiple effective dates.
- Requires the department of environmental management to establish an underground storage tank (UST) operator training program: (1) on an Internet web site; and (2) that complies with the requirements of the federal Energy Policy Act of 2005.
- Provides for the use of excess liability trust fund to be used for expenses incurred in establishing and implementing the UST operator training program.
- Increases the limit on combined amount of payments from the excess liability trust fund in a fiscal year to 11% percent.

Environmental Matters (SEA 433 P.L. 159-2011)

Author: Beverly Gard

Sponsor: David Wolkins

- Multiple effective dates.
- Expands the duties of solid waste management districts to include the implementation of educational programs for the public concerning reuse and recycling of electronic waste, collection programs, and proper disposal of electronic waste.
- Provides that the electronic digital signature act does not apply to the department of environmental management (IDEM).
- Amends definitions of "owner" and "operator" and defines "foreclosure" to delineate exceptions from potential liability for cleanup that: (1) are consistent with federal law under underground storage tank, petroleum facility, and hazardous substance facility statutes; and (2) apply to lenders that foreclose on sites at which they did not participate in management before foreclosure and that undertake certain enumerated activities after foreclosure.
- Replaces the undefined term "sanitary landfill" with "solid waste landfill".
- Establishes deadlines for action by IDEM on various permit applications with respect to certain solid waste processing facilities. Expands the grounds on which the commissioner of IDEM may suspend or revoke a drinking water or wastewater operator certification.
- For purposes of wastewater management statutes, replaces the term "wastewater" with "septage".
- Provides that wastewater management statutes apply to land application of septage. Removes the limitation on the number of landfill inspectors IDEM may designate.
- ERO PROVISION: Provides that an environmental restrictive ordinance (ERO) is an ordinance adopted by a municipal corporation that seeks to control the use of groundwater in a manner and to a degree that protects human health and the environment against unacceptable exposure to a release of hazardous substances, petroleum, or both. Requires IDEM to give written notice to a municipal corporation that the department is relying on an ERO adopted by the municipal

- corporation as part of a risk based remediation proposal. Requires a municipal corporation to notify IDEM of adoption, repeal, or amendment of an ERO only if the municipal corporation received that written notice.
- Allows, in streamlined rulemaking processes, the adoption of a proposed rule with amendments at the public hearing, and requires that the amendments meet logical outgrowth requirements.
 - Modifies the deductible for claims against the underground petroleum storage tank excess liability trust fund by certain underground storage tank owners.
 - Requires disclosure in the residential real estate sales disclosure form of known contamination caused by the manufacture of a controlled substance on the property that has not been certified as decontaminated by an approved environmental inspector.
 - Provides that an owner or agent is required to disclose to a transferee any knowledge of a psychologically affected property in a real estate transaction if the transferred property is listed on the Indiana criminal justice institute's methamphetamine registry web site.
 - Requires the environmental quality service council to study in 2011 each program administered by IDEM for which the annual revenue generated by the program exceeds IDEM's annual cost to administer the program.
 - Repeals a provision concerning air pollution control board permit or registration exemptions. Eliminates the northwest Indiana advisory board.
 - Provides that for purposes of rules adopted by the air pollution control board, until April 1, 2012, a reference to "chemical process plants" does not include an ethanol production operation that: (1) produces ethanol by natural fermentation after July 2, 2007; and (2) is included in the North American Industry Classification System (NAICS) code 325193 (Ethyl Alcohol Manufacturing) or 312140 (Distilleries), as described in 72 FR 24059 (May 1, 2007).
 - Provides that certain environmental rulemaking procedures do not apply to a proposed rule that constitutes an amendment to an existing Indiana rule if the primary and intended purpose of the rule is to clarify the existing rule.

Finance

Budget Bill (HEA 1001 P.L. 229-2011)

Author: Jeff Espich

Sponsor: Luke Kenley

- Multiple effective dates.
- The \$28.2 billion budget plan increases funding for K-12 education, while freezing money for most state agencies.
- Permits an action to recover a civil penalty from a member of the general assembly who is absent from the member's chamber with the result that the member's body is unable to form a quorum.
- Defines travel expenses for purposes of lobbyist reporting laws.
- Provides for disposition of an excess state reserve.

- Updates references to the Internal Revenue Code and decouples Indiana from certain changes made to federal income tax law.
- Changes deductions and credits.
- Requires certain tax preparers to electronic file returns.
- Changes the distribution formula for cigarette tax, sales tax, and racino assessments.
- Provides additional information to local units concerning local income tax collections and changes the method of calculating supplemental distributions.
- Makes changes in the distribution of revenue from certain food and beverage taxes and innkeeper's taxes. Indicates when the Allen County supplemental food and beverage tax expires. Reorganizes the state public employee civil service.
- Makes changes in retirement benefit programs for certain state public safety employees.
- Limits the term of future port commission bonds to 25 years. Permits the issuance of refunding bonds to extend the payment period for certain bonds.
- Terminates and transfers responsibilities of the family and social services committee, the Indiana tobacco use prevention and cessation executive board, and the community residential facilities council.
- Permits the issuance of alcoholic beverage permits in certain smaller cities. Limits medical expense liability for inmates.
- Makes changes in the Medicaid program and other health benefit programs, the first steps program, higher education scholarship programs, dual credit programs, and the Indiana comprehensive health insurance association (ICHIA) policy program. Imposes a moratorium on new Medicaid beds. Authorizes the adoption of emergency rules for programs administered by the family and social services administration.
- Makes changes related to distributions to hospitals. Provides for a quality assurance fee on nursing homes and hospitals.
- Establishes the council on Evansville state hospitals. Provides for infant screening.
- Makes changes related to collective bargaining of school employees, vacation leave for deaf and blind school employees, textbook reimbursement, and other education provisions.
- Provides for turnaround academies.
- Provides a tuition support distribution formula for public elementary and high schools.
- Specifies a schedule for establishment of recommended limits on higher education tuition and fee increases.
- Mandates participation of universities in the state health plan if required by the budget agency.
- Makes changes in university capital project procedures.
- Makes changes in the department of child services guardianships.
- Changes court fees.
- Freezes salaries of legislators, and permits increases in judicial salaries only if approved by the chief justice.
- Provides for a thirteenth check to certain retired public employees.

- Extends the time in which to repay a loan to the public deposit insurance fund.
- Exempts meals served at a legislative meeting from gross retail tax.
- Provides for various studies.

State and Local Administration (HEA 1004 P.L. 172-2011)

Author: Eric Turner

Sponsor: Luke Kenley

- Multiple effective dates.
- Requires the auditor of state to work with the office of technology and other state agencies to post on the Indiana transparency Internet web site a data base of state expenditures and fund balances and property owned by the state.
- Requires the commission for higher education to establish a web site where members of the public may view financial and other reports to a state agency that are public records. Requires information concerning local governments and local schools to be on the web site.
- Makes the economic development study committee a four year committee that expires December 31, 2014, and provides for certain studies.
- Requires the Indiana economic development corporation (IEDC) to collaborate with local economic development organizations and submit an annual report to the study committee regarding collaboration.
- Requires the state board of education, the commission for higher education, and the department of workforce development to work together to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.
- Requires the IEDC to conduct a statewide study to determine specific economic sectors that should be emphasized by the state and by local economic development organizations within geographic regions in Indiana.
- Decreases the corporate income tax rate from 8.5% to 6.5% over four years.
- Provides that the adjusted gross income tax and financial institutions tax (for investment companies) apply to interest on state and local bonds that are issued by a state other than Indiana, or a political subdivision of such a state, and that are acquired by the taxpayer after December 31, 2011.
- Provides that in the case of a county that becomes a member of a regional development authority (other than the northwest Indiana regional development authority) after June 30, 2011, and before July 1, 2013, the county may impose an additional county economic development income tax at a rate of 0.025% (rather than 0.05%, under current law).
- Allows counties that are more than two years behind on issuing tax bills to petition the department of local government finance to postpone the deadline for paying the first installment on a 2011 provisional property tax statement.
- Extends the time in which the city of Marion, a second class, or the city of Westfield may establish a professional sports development area. (18) Permits a person who received an overpayment of unemployment compensation to repay the excess over 36 months.

- Removes and repeals restrictions on activating a third community revitalization enhancement district in Delaware County and claiming tax credits for investments in the third district. Provides new criteria for designating a community revitalization enhancement district after 2010.
- Increases the maximum amount of income tax credits available under the venture capital investment tax credit from \$500,000 to \$1,000,000. Extends from 2013 to 2015 the end date for investments eligible for the venture capital investment tax credit. Suspends, for two years, the application fee for applicants seeking certification for the venture capital investment tax credit.
- Eliminates an advanced earned income tax credit.
- Permits local governments to pledge revenue from the county adjusted gross income tax and the county economic development income tax for redevelopment financing.
- Sets certain state credits to expire.
- FIRE TERRITORIES: Indicates that the delivery of services through a fire protection territory is not considered a municipal service for zoning outside the boundaries of the municipality. Specifies that a member of the legislative body of a unit may not vote on a proposed ordinance or resolution authorizing the unit to join or establish a fire protection territory if that member is also an employee of a participating unit or of another unit that is proposing to become a participating unit. Specifies that different tax rates may be levied for the participating units included within the territory. Specifies additional actions in order to become part of a fire protection territory and sets these additional requirements to expire on July 1, 2012. Requires the DLGF to review the tax rates and levies for each fire protection territory that is located in Hancock County and consider adjusting tax levies for participating units and whether different tax rates for fire protection services should be applied for the participating units included within the territory.
- PUBLIC SAFETY LOIT: Provides that a fire department, volunteer fire department, or emergency medical services provider may apply to the county to receive a distribution of the public safety local option income tax (LOIT) tax revenue before the remainder of the tax revenue is distributed to the county and to the municipalities in the county. Specifies that a municipality is entitled to receive a distribution of public safety LOIT revenue only if the municipality is providing public safety services.
- IACT INITIATIVE: Increases the cost of projects that may be performed without awarding a public works contract. Requires certain public works contract provisions for a public works project of more than \$1,000,000. Specifies notice and public meeting requirements that must be satisfied in certain circumstances before a public work project may be performed by the workforce of a municipality, county, state agency, or state educational institution. Adds requirements for examination reports prepared by the state board of accounts concerning certain public work projects.
- IACT INITIATIVE: Increases the cost threshold at which bids and quotes are required under the local public works statute to \$150,000.

- Provides that the circuit breaker credit and certain property tax deductions are to be allowed in the year of a property transfer if the property is determined to be exempt in the year following the transfer year.
- Allows the DLGF to cancel any property taxes assessed against real property owned by a local port authority.
- Prohibits the DLGF from approving a budget until a taxing unit files a financial report with the state board of accounts in the immediately preceding year. Corrects a reference to the date of the 2015 general reassessment.
- Establishes a procedure for a taxpayer to appeal an error in a circuit breaker or other property tax credit.
- Changes the methodology for certain property tax levy and rate determinations after a reassessment.
- Specifies that the full amount of property taxes imposed after being approved in a referendum shall be deposited in the fund for which the property taxes were imposed without reduction for the circuit breaker credits granted to taxpayers.
- Provides that property taxes on property consisting primarily of onsite regulated amusement devices and related improvements may be allocated for purposes of tax increment financing (TIF).
- TIF AREA EXPANSION: Removes the requirement that the IEDC approve enlargements of tax increment financing districts.
- Deletes the prohibition for the Wabash River Enhancement Corporation from using any of its Tippecanoe County innkeeper's tax distributions for employee salaries or other ongoing administrative or operating costs.
- Changes the Lake County innkeepers tax to add members to the convention and visitor bureau in Lake County, to specify that the tax applies to the renting or furnishing of rooms for periods of less than 30 days and by the same party in the same room, to authorize the deposit of innkeepers' tax revenue into funds established by the convention and visitor bureau, and to change the budget and financial reporting deadline.
- Changes the membership of the Clark County and Floyd County special funds board of managers, specifies that the open door and public record laws apply to the board of managers, and requires the publication of financial information and an annual report.
- Provides that recipients of Clark County and Floyd County innkeeper's tax revenues are required to submit a report to the board of managers when requested by the board of managers.
- Authorizes the county council of White County to increase the county's innkeeper's tax rate to not more than 5% to be used to promote conventions, tourism, and economic development in the county.
- Extends the Nashville food and beverage tax to 2022.
- PRICE PREFERENCE: Provides a price preference to local Indiana businesses bidding on purchasing and public works contracts awarded by political subdivisions.

Property Tax Deduction for New Unsold Residences (HEA 1046 P.L. 175-2011)

Author: Suzanne Crouch

Sponsor: Vaneta Becker

- Provides a 50% property tax deduction to a residential builder for a single family residence, townhouse, or condominium that has never been occupied.
- Specifies that the deduction terminates when title to the structure is transferred to the homeowner.
- Provides that the deduction applies for one assessment date for which the structure is assessed as partially completed and not more than three assessment dates for which the structure is assessed as fully completed.
- Provides that a residential builder may not claim deductions for more than three residences in Indiana per assessment date.

Video Service Franchise Fees (HEA 1131 P.L. 51-2011)

Author: Eric Koch

Sponsor: Jim Merritt

- Effective upon passage.
- Directs the regulatory flexibility committee (committee) to study the following not later than November 1, 2011: (1) Whether video service franchise fees paid to local units are used by local units for purposes related to the provision of video service in the units and in a manner consistent with the statute concerning video service franchises. (2) Whether video service franchise fees have an anti competitive effect on the pricing and provision of video service in Indiana.
- Requires the committee to submit to the legislative council not later than November 1, 2011, a report on any recommendations made by the committee concerning these topics.

Local Transfers Between Funds (HEA 1275 P.L. 53-2011)

Author: Tom Saunders

Sponsor: Connie Lawson

- Authorizes a county, city, or town to transfer money from its economic development income tax fund or rainy day fund to its general fund or any appropriated funds of the county, city, or town.
- Requires a county, city, or town to make the transfer by adopting an ordinance or resolution.

Property Taxes (HEA 1288 P.L. 124-2011)

Author: Milo Smith

Sponsor: Greg Walker

- Multiple effective dates.
- Provides that a civil taxing unit's maximum permissible property tax levy may not be reduced if the unit does not use its entire maximum levy authority in the preceding year.

Public Depositories (HEA 1297 P.L. 202-2011)

Author: Mark Messmer

Sponsor: Allen Paul

- Effective upon passage.
- Provides that in order to serve as a depository of public funds, a financial institution does not have to maintain a capital ratio in excess of the minimum required by the institution's governmental supervisory body if the institution has fully collateralized the institution's public funds on deposit by pledging and delivering acceptable collateral to the board for depositories.
- Provides that a service charge to be paid by a political subdivision to a public depository in which the political subdivision's funds are deposited may be paid from interest earned on the funds in the political subdivision's account with the public depository.
- Provides that a service charge to be paid by a political subdivision to a public depository for the depository's management of an investment cash management system for the political subdivision may be paid from interest earned on the funds in the political subdivision's account with the public depository that manages the system.

Volunteer Fire Department Recovery of Costs (HEA 1365 P.L. 208-2011)

Author: Dick Dodge

Sponsor: Joe Zakas

- Allows the first responding volunteer fire department to recover attorney's fees and costs incurred by the department in an action to recover unpaid service charges.
- Prohibits a volunteer fire department funded by taxes imposed by a unit or by a contract with a unit from imposing a charge on persons who reside or pay property taxes in the unit unless the spill or chemical or hazardous material fire poses an imminent threat to persons or property.
- Provides that a bill for a service charge by a volunteer fire department must contain: (1) verification that the bill has been approved by the chief of the volunteer fire department; and (2) language indicating that correspondence from the person being billed regarding the bill should be directed to the department.
- Provides that all bills sent by an agent of a volunteer fire department must be approved by the chief of the volunteer fire department before it is sent to the

person being billed for services, and specifies that the chief of the volunteer fire department must review a bill before authorizing an agent to proceed with collection efforts for that bill.

Unemployment Insurance (HEA 1450 P.L. 2-2011)

Author: Dan Leonard

Sponsor: Dennis Kruse

- Multiple effective dates; some retroactive.
- Provides that an individual employed for any week on an on-call or as-needed basis and who receives remuneration for personal services or has available work from an on-call employer is not totally or partially unemployed for purposes of receiving an unemployment benefit.
- Provides that an individual is not eligible for an unemployment insurance benefit (benefit) for any week in which the individual is on a vacation week, if the individual receives remuneration from the employer for that week, or the individual does not receive remuneration from the employer for that week, because of a written contract with the employer or the employer's regular vacation policy and practice, and has a reasonable assurance of employment with the employer after the vacation period ends.
- Removes the cap on wage credits. Establishes the weekly unemployment insurance benefit amount as 47% of the individual's prior average weekly wage.
- Establishes the maximum weekly benefit amount at \$390. Removes from the definition of "deductible income": (1) for a week in which a payment is actually received by an individual, payments made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure; and (2) the part of a payment made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure if that part is attributable to a week, and the week: (A) occurs after an individual receives the payment; and (B) was used under the terms of a written agreement to compute the payment. Includes in the definition of "deductible income": (1) compensation made under a valid negotiated contract or agreement in connection with a layoff or plant closure, without regard to how the compensation is characterized by the contract or agreement; and (2) a supplemental unemployment insurance benefit made under a valid negotiated contract or agreement.
- Provides for an annual employer surcharge that, for 2011, is equal to 13% of the contribution rate paid by the employer, if the state is required to pay interest on advances made to the state from the federal unemployment account in the federal unemployment trust fund.
- For a calendar year after 2011, requires the department of workforce development (department) to determine the surcharge percentage for the year by January 31 based on factors that include: (1) the interest rate charged the state for the year; and (2) the state's outstanding loan balance to the federal unemployment account on January 1.
- Allows the department to use the employer surcharge to repay interest on federal advances.

- Exempts new employers from payment of the unemployment insurance surcharge.
- Establishes the unemployment insurance solvency fund for the part of the employer surcharge used to repay interest on federal advances.
- Provides that, for calendar years 2011 through 2020, Schedule E applies in determining and assigning each employer's contribution rate.
- Makes changes to the method used to determine an employer's contribution rate when the employer fails to properly file all required contribution and wage reports and to pay all contributions, penalties, and interest due and owing by the employer or the employer's predecessors.
- Provides that unemployment benefits may not be paid to an individual employed by a Head Start or an Early Head Start program for a week during a period between two successive academic years or terms if the individual performs the employment in the first academic year or term and there is a reasonable assurance that the individual will be employed in the second academic year or term.
- Provides that, in 2012, an individual may elect to have state income tax and local income tax withheld from unemployment compensation received by the individual.
- Provides that a distribution from a pension, retirement, or annuity plan is not deductible from an individual's unemployment benefit if the individual uses the distribution to satisfy a severe financial hardship resulting from an unforeseeable emergency that is the result of events beyond the individual's control.

Taxation of Civil Service Annuities (SEA 39 P.L. 95-2011)

Author: Sue Landske

Sponsor: Ed Clere

- Effective upon passage.
- Requires the commission on state tax and financing policy to study how the Indiana income tax structure, including existing and potentially new income tax credits and deductions, may influence a senior's decision on residency in Indiana after retirement.
- Requires the commission to study whether each of the local option income taxes affect the ability of political subdivisions to provide services to (1) a facility that employs a significant number of individuals who reside in another county; and (2) the individuals who reside outside the county and commute to jobs at the facility.
- Requires the commission to study whether political subdivisions should be provided additional financing options for providing such services.
- Requires the commission to study how local option income taxes should be distributed within a county to local units of government.

Local Option Income Tax Adoption Dates (SEA 62 P.L. 77-2011)

Author: Travis Holdman

Sponsor: Ralph Foley

- Effective upon passage.
- Confirms references to ordinance adoption dates in the local income tax laws to the dates specified in P.L.113-2010, SECTIONS 61, 63, and 66 (HEA 1086-2010).

Capital Ration Requirement for Public Depositories (SEA 205 P.L. 147-2011)

Author: Allen Paul

Sponsor: Tom Saunders

- Effective upon passage.
- Provides that in order to serve as a depository of public funds, a financial institution does not have to maintain a capital ratio in excess of the minimum required by the institution's governmental supervisory body if the institution has fully collateralized the institution's public funds on deposit by pledging and delivering acceptable collateral to the board for depositories.
- Provides that a service charge to be paid by a political subdivision to a public depository in which the political subdivision's funds are deposited may be paid from interest earned on the funds in the political subdivision's account with the public depository.
- Provides that a service charge to be paid by a political subdivision to a public depository for the depository's management of an investment cash management system for the political subdivision may be paid from interest earned on the funds in the political subdivision's account with the public depository that manages the system.

Swap Agreements (SEA 388 P.L. 218-2011)

Author: Brent Waltz

Sponsor: Mike Speedy

- Defines "issuing body", for purposes of restrictions on swap agreements, to include the state of Indiana and its agencies, commissions, and authorities, the Indiana bond bank, a political subdivision, county, school corporation, hospital association, municipal corporation, or special taxing district, a local public improvement bond bank, and any entity that issues bonds payable by any of these entities.
- Provides that swap agreements are covered by the restrictions only if any part of the payments owed by an issuing body is payable from tax revenues or special assessments.
- Provides that the law places restrictions on the use of swap agreements and does not authorize entering into swap agreements for any entity not already authorized under another law.

- Provides that a swap agreement may be used only in connection with the financing activities of an issuing body and may not be used as an investment by an issuing body. Provides that a swap agreement may be entered into only under the following conditions: (1) The swap agreement would not cause the aggregate outstanding notional amounts of all of the issuing body's outstanding swap agreements on obligations payable from tax revenues to exceed 20% of the sum of all aggregate outstanding obligations of the issuing body payable from tax revenues plus obligations payable from tax revenues not yet issued but for which one or more swap agreements have been entered into by the issuing body.
- Provides that the Indiana finance authority may provide an exemption from the threshold for a local issuing body, and that the budget committee must review a proposed swap agreement that would cause a state issuer to exceed the threshold. (2) The issuing body (if other than the Indiana finance authority) has adopted a comprehensive swap agreement policy at a public meeting that is not less restrictive than the swap agreement policy governing the adoption of swap agreements that is in place for the Indiana finance authority. (3) The swap agreement is approved by the issuing body at a public meeting and the resolution includes a thorough analysis of the risk the issuing body is assuming by entering into the swap agreement.
- Requires reports by the issuing body to its governing board regarding swap agreements.

Pensions

Public Pension Funds (HEA 1048 P.L. 177-2011)

Author: David Niezgodski

Sponsor: Mike Young

- Multiple effective dates
- Allows a member of the 1977 police officers' and firefighters' pension and disability fund (1977 fund) (or survivor of a member) who applied for disability prior to 1990 and is receiving a disability benefit to apply to a local board for a recommendation as to whether the member's disability occurred in the line of duty. Provides that the local board shall make a recommendation of its findings to the 1977 fund advisory committee (committee).
- Provides that the committee shall make an initial determination of whether the member's disability occurred in the line of duty. Provides that if the committee fails to timely provide an initial determination, the default determination will be made by the public employees' retirement fund (PERF) medical authority. Provides that the PERF board makes a final determination of whether the member's disability occurred in the line of duty.
- Establishes procedures to appeal: (A) a recommendation by the local board; (B) an initial determination by the committee; or (C) an initial default determination made by the PERF medical authority.

- Requires that a member or survivor apply to the local board within two years of the receipt of a PERF board's notice that the PERF board has received a favorable ruling from the Internal Revenue Service.
- Provides that an active member of the 1977 fund who has entered the deferred retirement option plan (DROP) before July 1, 2011, may elect to exit the DROP and receive a partial lump sum distribution.
- Provides that a 1977 fund member who enters the DROP after June 30, 2011, may not elect to receive a partial lump sum distribution.
- Provides a thirteenth check to participants of the state excise police, gaming agent, gaming control officer, and conservation officers' retirement fund.

PERF and TRF Administrative Matters (SEA 12 P.L. 13-2011)

Author: Phil Boots

Sponsor: Suzanne Crouch

- Multiple effective dates
- Permits a member of the public employees' retirement fund (PERF) or TRF who is eligible for an early retirement to withdraw the member's annuity savings account without applying for a retirement benefit.
- Requires, after December 31, 2011, that an employer of participants in: (1) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (2) the judges' retirement system; (3) the prosecuting attorneys' retirement fund (PARF); and (4) the 1977 police officers' and firefighters' pension and disability fund (1977 Fund); submit contributions, reports, and records electronically.
- Authorizes the PERF board of trustees to establish due dates for contributions, reports, and records submitted by an employer.
- Permits an administrative law judge, for cause shown, to order the waiver or extension of the 180-day limit in which the PERF board of trustees is required to issue a final order after the date the PERF board receives a local board's initial disability determination or the PERF director initiates a review of a default disability award for a 1977 Fund member.

Public Employees' Defined Contribution Plan (SEA 524 P.L. 22-2011)

Author: Phil Boots

Sponsor: Jerry Torr

- Establishes a defined contribution plan (plan) as an option for new state employees. A state employee who does not elect to become a member of the plan becomes a member of the public employees' retirement fund (PERF).
- Requires the PERF board of trustees (board) to establish the same investment options for the plan that are available for the investment of a PERF member's annuity savings account.
- Provides that a member's contribution to the plan is 3% of the member's compensation and is paid by the state on behalf of the member.

- Provides that the state's employer contribution rate for the plan is equal to the state's employer contribution rate for PERF.
- Provides that the amount credited from the employer's contribution rate to the member's account shall not be greater than the normal cost of PERF with any amount not credited to the member's account applied to PERF's unfunded accrued liability.
- Establishes a minimum state employer contribution of 3% of plan members' compensation.
- Establishes a five year vesting schedule for employer contributions, and requires a member who terminates state employment before the member is fully vested to forfeit amounts that are not vested.
- Establishes provisions for the withdrawal of amounts in member accounts.
- Authorizes rollover contributions to the plan.
- Urges the legislative council to assign to the pension management oversight commission (commission) the study of whether to create a defined contribution plan as an option for new employees of political subdivisions that participate in PERF and for new employees who are eligible to become members of the teachers' retirement fund. Requires, if the commission is assigned the topic, that the commission issue a final report containing the commission's findings and recommendations, including any recommended legislation, not later than November 1, 2011.

Indiana Public Retirement System (SEA 549 P.L. 23-2011)

Author: Phil Boots

Sponsor: Jerry Torr

- Establishes the Indiana public retirement system (system) to administer and manage: (1) the public employees' retirement fund (PERF); (2) the teachers' retirement fund (TRF); (3) the judges' retirement fund; (4) the prosecuting attorneys retirement fund; (5) the state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund; (6) the 1977 police officers' and firefighters' pension and disability fund (1977 Fund); (7) the legislators' retirement system; (8) the pension relief fund; (9) the special death benefit fund; and (10) the state employees' death benefit fund.
- Creates a nine member board of trustees (board) for the system appointed by the governor as follows: (1) at least one member with experience in economics, finance, or investments; (2) at least one member with experience in executive management or benefits administration; (3) the director of the budget agency (or designee) serving as an ex officio voting member; (4) two members nominated by the speaker of the house of representatives: one an active or retired police officer or firefighter who is a member of the 1977 Fund and one TRF member; (5) two members nominated by the president pro tempore of the senate: one PERF member and one TRF member; (6) one member nominated by the auditor of state: the auditor of state or an individual with experience in professional financial accounting or actuarial science; and (7) one member nominated by the treasurer of

state: the treasurer of state or an individual with experience in economics, finance, or investments.

- Requires that initial appointments to the board give a preference for those individuals who, on June 30, 2011, are serving as trustees of PERF and TRF, and provides that a PERF or TRF trustee appointed to the board serves until the trustee's term would have expired under prior law.
- Provides for a four year term for trustees.
- Requires the system's chief investment officer and the officer's staff to file annual financial disclosure statements with the inspector general.
- Provides that the board's powers and duties are the combined powers and duties of the PERF and TRF boards.
- Provides that each retirement fund continues as a separate fund managed by the board.
- Provides for a director of the system who is appointed by and serves at the pleasure of the board.
- Provides that employees of PERF and TRF remain members of those funds. Provides that new hires of the system become PERF members, unless the director expressly determines otherwise.
- Allows the board to establish contribution rate groups for PERF, and removes the requirement that each employer have a separate account within the retirement allowance account.
- Eliminates the 1977 Fund advisory committee.
- Authorizes the board to adopt rules without complying with IC 4-22-2 in establishing impairment standards, a list of excludable medical conditions, and standards and tests for the baseline statewide physical examination for the 1977 Fund.
- Repeals provisions that establish the PERF and TRF boards and require PERF and TRF to hire a common director. Repeals corresponding definitions and cross-references.

Public Safety

Use of Telecommunication Device While Driving (HEA 1129 P.L. 185-2011)

Author: Eric Koch

Sponsor: Travis Holdman

- Provides that it is a Class C infraction if a person uses a telecommunications device to type, transmit, or read a text message or an electronic mail message while operating a moving motor vehicle, but permits a person: (1) to use hands free or voice operated technology to transmit a text message or an electronic mail message; and (2) to call 911 to report an emergency; while operating a moving motor vehicle.
- Provides, for purposes of the prohibition against using a telecommunications device while operating a motor vehicle, that "telecommunications device" does

- not include: (1) amateur radio equipment operated by a person licensed by the Federal Communications Commission as an amateur radio operator; or (2) a communications system installed in a commercial motor vehicle weighing more than 10,000 pounds.
- Prohibits a police officer from confiscating a telecommunications device for the purpose of determining compliance or confiscating a telecommunications device and retaining it as evidence pending trial for a violation.
 - Repeals the current definition of "telecommunications device".

Speed Zones for All Year Schools (HEA 1224 P.L. 52-2011)

Author: Cherish Pryor

Sponsor: Jim Merritt

- Provides that after June 30, 2012, if a school speed zone has been established for a school that operates on a 12 month schedule, in order for the speed limit to be valid there must be a school zone sign indicating that the school is an all year school.

Firefighter Certification Tests (HEA 1393 P.L. 56-2011)

Author: Kathleen Heuer

Sponsor: Sue Landske

- Provides that the board of firefighting personnel standards and education may not, before January 2, 2012, require a candidate for mandatory, basic, firefighter I, or firefighter II certification to take the certification test solely by computer, the Internet, or other online arrangement.

Jurisdiction of University and College Police (HEA 1406 P.L. 30-2011)

Author: Randy Truitt

Sponsor: Jim Arnold

- Provides that a police officer employed by a college or university may exercise the officer's police power in any part of Indiana if: (1) the college or university adopts a resolution specifically describing the territorial jurisdiction of a police officer employed by the college or university; and (2) the board of trustees sends notice to the superintendent of state police and the sheriff (or in the case of a consolidated city, the chief of police) of the county in which the institution is primarily located.
- Requires a police officer employed by a college or university to meet the certain training requirements in order to exercise the officer's police powers.
- Requires a police officer employed by a college or university that exercises the officer's police powers outside of the county in which the institution is primarily located to notify the sheriff (or in a consolidated city, the chief of police) as soon as practicable.

Interstate Mutual Aid Agreements (SEA 6 P.L. 94-2011)

Author: Joe Zakas

Sponsor: Tim Neese

- Effective upon passage.
- Authorizes the state and local units of government to enter into agreements to provide interstate mutual aid for emergency responses that do not rise to the level requiring a state or local declaration of a state of emergency or disaster.
- Recognizes certain out-of-state professional licenses, certifications, or other permits when the state or a political subdivision requests mutual aid from jurisdictions outside of Indiana.
- Provides immunity from civil liability to certain persons acting under such mutual aid agreements.
- Specifies that emergency responders from outside Indiana rendering mutual aid within Indiana under such mutual aid agreements remain employees and agents of their respective employers and jurisdictions.
- Provides that benefits enjoyed by emergency responders rendering mutual aid under such mutual aid agreements shall extend to the services the emergency responders perform outside their respective jurisdictions as if those services had been rendered in their own jurisdiction.
- Requires such mutual aid agreements to be approved in the same manner as interlocal cooperation agreements are approved.

Alcoholic Beverage Matters (SEA 78 P.L. 216-2011)

Author: Jim Merritt

Sponsor: Greg Steuerwald

- Makes it a Class B misdemeanor for an alcoholic beverage permittee or an employee or agent of the permittee to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person who is or reasonably appears to be less than 40 years of age an alcoholic beverage for consumption off the licensed premises without first requiring the person to produce specified identification showing that the person is at least 21 years of age. (Current law makes it a Class B misdemeanor for an alcoholic beverage permittee or an employee or agent of the permittee to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person an alcoholic beverage for consumption off the licensed premises without first requiring the person to produce specified identification showing that the person is at least 21 years of age.)
- Urges the legislative council to assign to an existing study committee the topic of which state agency should have authority to control dangerous alcohol products.
- Provides that only the alcohol and tobacco commission may conduct random unannounced inspections at locations where alcoholic beverages are sold or distributed to ensure compliance with certain alcoholic beverage laws. (Under current law, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may also conduct random unannounced inspections.)

- Provides that the holder of a club permit for alcoholic beverages may designate as "guest day" or "guest days" three or fewer days in a month or nine or fewer consecutive days in a quarter. (Current law allows a holder of a club permit to designate one day each month as a "guest day".)

Local Travel Advisories (SEA 267 P.L. 40-2011)

Author: Tom Wyss

Sponsor: Ed Soliday

- Establishes the following categories for local travel advisories: (1) "Advisory". (2) "Watch". (3) "Warning".
- Provides that the "warning" travel advisory may be used only if a local disaster emergency is declared.

Local Regulation of Firearms (SEA 292 P.L. 152-2011)

Author: Jim Tomes

Sponsor: Mike Speedy

- Prohibits, with certain exceptions, a political subdivision from regulating: (1) firearms, ammunition, and firearm accessories; (2) the ownership, possession, carrying, transportation, registration, transfer, and storage of firearms, ammunition, and firearm accessories; and (3) commerce in and taxation of firearms, firearm ammunition, and firearm accessories. Any provision of an ordinance that currently regulates these matters is void.
- Exceptions include but are not limited to: political subdivisions may regulate carrying of a firearm into a building containing a courtroom; political subdivisions may have a compliant security check point to detect firearms in other municipal buildings, however, a licensed carrier cannot be denied entry; an event promoter or a political subdivision may set rules of conduct for an event.
- Allows a person to file an action against a political subdivision if the person is adversely affected by an ordinance, a measure, an enactment, a rule, or a policy of the political subdivision that violates the law.
- Repeals a conflicting statute concerning local regulation of firearms.

Traffic Control Signals (SEA 337 P.L. 43-2011)

Author: Ron Grooms

Sponsor: Steve Stemler

- Provides that: (1) a person operating a vehicle entering an intersection or crosswalk facing a pedestrian hybrid beacon (beacon) may proceed without stopping if no indication is displayed on the beacon; and (2) in that instance the operator is not required to yield the right-of-way to a pedestrian crossing that intersection within a crosswalk.

- Provides that when a yellow lens with an arrow illuminated with rapid intermittent flashes is used in a traffic signal, a person who operates a vehicle may turn only after yielding to oncoming traffic.

Work Zone Safety (SEA 338 P.L. 66-2011)

Author: Ron Grooms

Sponsor: Steve Stemler

- Requires a worksite speed limit to be at least ten miles per hour below the maximum established speed limit for the location on the road or highway on which the worksite is located.
- Provides that a driver who, in a highway work zone, engages in certain acts that in combination otherwise constitute the offense of aggressive driving commits a Class B infraction.
- Provides that the Indiana department of transportation may use funds collected as judgments for these infractions to hire off-duty police officers to patrol highway work zones.

Handgun Possession (SEA 506 P.L. 164-2011)

Author: Dennis Kruse

Sponsor: Heath VanNatter

- Allows a person to carry a handgun without being licensed to carry a handgun if: (1) the person is in or on property, or in a vehicle, that is owned, leased, rented, or otherwise legally controlled by the person; (2) the person is lawfully present in or on private property that is owned, leased, rented, or otherwise legally controlled by another person, if the person has the consent of the owner to have the handgun on the premises, is attending a firearms related event, or is receiving firearms related services; (3) the person is lawfully present in a vehicle, that is owned, leased, rented, or otherwise legally controlled by another person; (4) the person is carrying the handgun at a shooting range, while attending a firearms instructional course, or while engaged in a legal hunting activity; or (5) the handgun is unloaded and securely wrapped. (Current law provides that a person who does not possess a valid handgun license may not carry a handgun in any vehicle or on or about the person's body unless the person: (1) is in the person's dwelling or fixed place of business or on the person's property; or (2) is carrying the handgun unloaded and in a secure wrapper from the place where the handgun was purchased to the person's dwelling or fixed place of business, between a handgun repair shop and the person's dwelling or fixed place of business, or from one dwelling or fixed place of business to another.)
- Specifies that a person who has been convicted of domestic battery may not possess or carry a handgun unless the person's right to possess a firearm has been restored by a court.

Transportation

Off-road Vehicle Registration (HEA 1082 P.L. 25-2011)

Author: Sean Eberhart

Sponsor: Lindel Hume

- Provides that an off-road vehicle or snowmobile that is owned and used for official business by the state, a municipal corporation, or a volunteer fire department is not required to be registered with the department of natural resources (DNR).
- Provides that the owner of an off-road vehicle or snowmobile may submit either a bill of sale or a certificate of title with a registration application. (Under current law, only a bill of sale may be submitted.)
- Provides that DNR may use money in the off-road vehicle and snowmobile fund to pay for operating expenses related to DNR properties on which are located off-road vehicle or snowmobile trail.

Railroad Statutes (HEA 1124 P.L. 50-2011)

Author: Chet Dobis

Sponsor: Tom Wyss

- Repeals certain provisions of the Indiana Code concerning state oversight of railroads. Repeals provisions concerning local ordinances regulating train speed. Repeals the full crew law.

Extra Heavy Duty Highways (HEA 1137 P.L. 120-2011)

Author: Dan Stevenson

Sponsor: Earline Rogers

- Effective upon passage.
- Provides that certain sections of Highway 912 in East Chicago are designated as extra heavy duty highways, and that the total gross weight of a vehicle or combination of vehicles operated with a special weight permit at one intersection on Highway 912 may not exceed 264,000 pounds, with several other weight restrictions on a vehicle operated at that intersection.

Joint Committee on Transportation Infrastructure Study Topics (HEA 1334 P.L. 206-2011)

Author: Milo Smith

Sponsor: Vaneta Becker

- Requires the joint study committee on transportation and infrastructure assessment and solutions to study, during the 2011 interim, issues related to the use of motorized bicycles and motor scooters.

Joint Committee on Transportation Infrastructure (HEA 1371 P.L. 5-2011)

Author: Ed Soliday

Sponsor: Ed Charbonneau

- Establishes the joint study committee on transportation and infrastructure assessment and solutions. Sets forth the membership of the committee.
- Provides that the committee operates under policies adopted by the legislative council. Provides that the committee expires January 1, 2016.

Utilities

Storm Water Management (HEA 1291 P.L. 125-2011)

Author: Milo Smith

Sponsor: Beverly Gard

- Provides that a municipality is not liable for the investigation, assessment, or opinion offered by the city board of works, town council, or designee in connection to storm water nuisances.
- Establishes an alternative dispute process for dealing with storm water nuisance complaints.
- Provides that the person seeking the removal of a storm water nuisance may file a request with a designated unit of government to investigate and make an assessment of the alleged problem.
- Allows a local unit to adopt an ordinance to charge a fee to recover the costs associated with the process. Requires the unit of government designee to provide an oral or written report pertaining to the assessment and alternative dispute resolution information.
- Establishes certain limitations in the applicability of the storm water nuisance investigation or assessment.
- Provides that an artificial conveyance or runoff operating in compliance with a permit issued by a political subdivision is not subject to the provisions related to the alternative dispute process dealing with storm water nuisance complaints.
- Requires a person who lays out commercial, industrial, or other land developments outside the corporate boundaries of a municipality to submit drainage plans and specifications to a county drainage board.
- Establishes that "development", for purposes of a drainage plan submitted to a county drainage board, does not include public or municipally owned utility infrastructure.

Utility Matters (SEA 66 P.L. 96-2011)

Author: Beverly Gard

Sponsor: Dave Wolkins

- Provides that the following qualify as a renewable energy resources for purposes of the statute that provides financial incentives for clean coal and energy projects: (1) Low temperature, oxygen starved gasification of municipal solid waste. (2) Methane recovered from landfills for the production of electricity. (3) Coal bed methane derived from a naturally occurring biogenic process.

Various Communications Matters (SEA 480 P.L. 219-2011)

Author: Brandt Hershman

Sponsor: Eric Koch

- Authorizes the utility regulatory commission (IURC) to delegate authority to its staff to grant certain requests concerning telephone numbers.
- Provides that actions taken by the staff are appealable to the IURC. Specifies the information that the IURC may require certain communications service providers to include in applications for certificates of territorial authority.
- Provides that the IURC may not require a video service provider to disclose more frequently than in each odd numbered year information regarding the areas in which an applicant for a video service franchise has deployed, or plans to deploy, video service.
- Specifies that a video service provider or an applicant for a video service franchise may not be required to disclose information that identifies at a certain level of specificity the areas in which the provider or applicant has deployed, or plans to deploy, video service in Indiana.
- Grants jurisdiction to resolve certain matters concerning video service franchises to the IURC rather than a court with jurisdiction.

Wind Power Device Exemption (SEA 481 P.L. 46-2011)

Author: Brandt Hershman

Sponsor: Don Lehe

- Effective January 1, 2010 (retroactive).
- Specifies that a wind power device does not qualify for the assessed value deduction if it is owned or operated by: (1) a public utility; or (2) another entity that provides electricity at wholesale or retail for consideration, other than a person who participates in a net metering program offered by an electric utility.

Criminal Code Changes

Crimes Outside Title 35 (HEA 1054 P.L. 70-2011)

Author: Ralph Foley

Sponsor: Richard Bray

- Lists criminal statutes that are codified outside IC 35.

Criminal Conversion of Leased Motor Vehicles (HEA 1325 P.L. 227-2011)

Author: Greg Steuerwald

Sponsor: Jim Merritt

- Makes criminal conversion of a leased motor vehicle a Class D felony instead of a Class A misdemeanor.

Depository Rule (SEA 464 P.L. 107-2011)

Author: Richard Bray

Sponsor: Ralph Foley

- Defines "public servant", and substitutes "public servants" for "public officers" with respect to certain duties and obligations concerning public funds.
- Makes knowingly or intentionally failing to properly deposit public funds a Class A misdemeanor, and increases the penalty to a Class D felony if the amount involved is at least \$750 and to a Class C felony if the amount involved is at least \$50,000. (The offense is currently a Class B felony.) Repeals a conflicting provision.