

**aim** Accelerate  
Indiana  
Municipalities

A blue-tinted photograph of the Indiana Statehouse building, featuring a prominent dome and a flag on top. The building is surrounded by other city buildings and a street with cars and a sign for 'McCORMICK FRESH'.

# STATEHOUSE REPORT 2021

## Session Overview

The 2021 legislative session was unique from the beginning due to the logistical changes and social distancing measures made necessary by the COVID-19 pandemic. While the Senate continued meeting in their chamber, the House moved their operations over to the Government Center, where they combined several conference rooms to make a makeshift chamber and committee room. Access to the Statehouse was significantly limited, particularly in the first half of session, so having in-person contact with legislators and staff was challenging. As session progressed and as more people became vaccinated, there was a renewed sense of normalcy, but it certainly was still an unusual session from start to finish.

As expected, many COVID-19 related bills were given top priority and passed into law such as amending the emergency powers of state and local officials, expanding telehealth options, and providing civil immunity to businesses, governments and organizations for claims related to COVID-19.

While many pandemic-related issues were considered, it was not the only focus of the legislative session. While the total number of bills introduced this year was slightly lower than a regular long session, the bills presented were awash with activity. You will see this reflected in the bill summaries throughout the Statehouse Report.

One of the major focuses this session, as it is in all odd-numbered years, was the state budget, HEA 1001. Bolstered by a strong pandemic recovery in Indiana and the addition of federal stimulus funding, the budget boasted historic increases in funding for education, health care, regional economic development, and broadband.

The pandemic did disrupt a major legislative priority: redistricting. Every ten years, the General Assembly is obligated to redraw legislative and congressional districts based on new decennial census data. The availability of the data was delayed until later in the year, so the legislature did not adjourn "sine die" by the typical deadline of April 29. Instead, they recessed with the intention of returning in the fall to redraw the maps. Technically, they are still in session and can return anytime before November 15, 2021 (the new "sine die" date). However, leaders have said it will take something extraordinary to happen for them to come back in for reasons other than redistricting.

Aim focused its 2021 operational initiatives on lessons learned from the pandemic, one of which is how local governing bodies can effectively hold virtual public meetings. Authorized by executive order, the virtual public meetings held during the pandemic started to create a track record of how technology and electronic options can successfully be used by local governing bodies in public meetings. Therefore, Aim sought a permanent statutory framework to allow the use of virtual meetings both in times of emergency and in times of normal operation. This initiative passed in HEA 1437, championed by Sen. Linda Rogers (R-Granger) and Rep. Tony Cook (R-Cicero).

Another operational initiative was to provide greater fiscal flexibility with Rainy Day Fund transfers. The past 18 months have resulted in a great deal of future fiscal uncertainty for local governments while federal stimulus money has simultaneously been flowing to local governments through the CARES Act and the American Rescue Plan Act. HEA 1271 contained a provision to increase the amount of a local government's budget that can be transferred to the Rainy Day Fund in any one year from 10% to 15% through 2024. This change will give more flexibility in fiscal planning at least through 2024 while the federal stimulus funding is available. Looking ahead, seeking a legislative change to remove the 2024 sunset might be a future Aim initiative.

In this Statehouse Report, you will find the collection of new laws that have municipal importance or impact. Most of the laws go into effect on July 1, 2021. However, some laws have various effective dates, including retroactivity and upon passage. To view the legislation showing the effective dates, click on the link with the bill number and title. This will take you to information for that bill on the Indiana General Assembly’s website, [www.iga.in.gov](http://www.iga.in.gov).

We hope you will find the 2021 Statehouse Report to be a useful tool in learning about the multitude of new laws that were adopted this year. As always, if you have questions about any piece of legislation or current law, contact a member of the Aim legislative team or Aim legal counsel for assistance.

We appreciate your input throughout the session and thank you for keeping your legislators informed about municipal matters that are important to you and your community!

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Indiana  
Municipalities

2021

**Administration**

## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
- \$60M toward the Next Level Trails program.
- \$500M to the Regional Economic Acceleration & Development Initiative (READI), led by the Indiana Economic Development Corporation (IEDC).

There was some discussion this session about eliminating the requirement for individuals to obtain a permit in order to carry a handgun, allowing Indiana to become a “permitless carry” or “constitutional carry” state. Instead of eliminating the requirement to obtain a permit, a compromise was made to only eliminate the fee associated with obtaining a permit. This causes a loss of fee revenue to local law enforcement agencies, estimated to be about \$7 million statewide, thus the \$7 million appropriation for local law enforcement training grants through the Indiana Criminal Justice Institute.

The body cameras grant program will require a local match – 50% for cities and towns with a population of 10,000 or more, or 25% for cities and towns with a population of under 10,000. This will be administered by the Indiana State Police.

For more information on the broadband funding, see [OCRA's website](#) and the bill summaries for HEA 1449, SEA 352, SEA 359, and SEA 377. New guidelines are expected by July 1, 2021.

Another major provision worth highlighting is the creation of the READI Program, a similar concept to the original Regional Cities Initiative and funded at \$500 million. Regions are eligible to receive up to \$50 million each to fund projects and initiatives that attract talent and drive economic growth. Neighboring cities, towns, and counties and its coordinating organization (which may be a regional development authority, or a nonprofit organization formed as a partnership between regional stakeholder entities) have until July 1, 2021, to inform the IEDC of their intent to seek funding as a region, with the opportunity to receive planning grants of up to \$50,000. All program information can be found on the IEDC's website [here](#).

The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
  - o If a unit is opted into the state settlement, they waive all other claims against the opioid providers and no future claims may be brought.
  - o 30% of the settlement funds will go to the agency settlement fund.
    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
- Provides that the regular technical session statute does not apply in calendar year 2021.
- Specifies the deadlines for signing enrolled acts and presenting them to the governor for bills passed after April 19, 2021, and before May 1, 2021.
- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
  - (2) That for 2021, the prohibited period concerning fundraising activities is through April 29, 2021, rather than the date on which the general assembly adjourns sine die.
  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)
- Provides provisions for opioid litigation and settlements, including opt out provisions for political subdivisions.
- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
- Establishes the Pokagon Band Tribal-state compact fund and specifies the purposes for the fund.
- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

## **HEA 1002, PL 166 CIVIL IMMUNITY RELATED TO COVID-19**

Author: Torr

Sponsor: Messmer

- Protects health care providers from professional discipline for certain acts or omissions arising from a disaster emergency unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a health care provider is not protected from professional discipline for actions that are outside the skills, education, and training of the health care provider, unless certain circumstances apply.
- Specifies that orders and recommendations issued by local, state, and federal government agencies and officials during a state disaster emergency do not create new causes of action or new legal duties.
- Specifies that the orders and recommendations are presumed irrelevant to the issue of the existence of a duty or breach of a duty.
- Prohibits filing a class action lawsuit against a defendant in a civil action allowed by the statute.
- Specifies that a governmental entity or employee is not liable if a loss results from an act or omission arising from COVID-19 unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a person is not liable to a claimant for loss, damage, injury, or death arising from COVID-19 unless the claimant proves that the person caused the loss, damage, injury, or death by an act or omission constituting gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides immunity from civil liability to certain persons, entities, and facilities providing health

care and other services for certain acts or omissions related to the provision of health care services and other services during a state disaster emergency.

- Extends COVID-19 health care immunity during periods of disaster emergency after February 29, 2020, and before April 1, 2022.
- Resolves conflicts between SEA 1 and HEA 1002.

### **HEA 1006, PL 12: LAW ENFORCEMENT OFFICERS**

Author: Steuerwald

Sponsor: Mike Young

- Requires the Indiana law enforcement training board to establish mandatory training in de-escalation as part of the use-of-force curriculum, and requires de-escalation training to be provided as a part of:
  - (1) pre-basic training;
  - (2) mandatory inservice training; and
  - (3) the executive training program.
- Establishes a procedure to allow the Indiana law enforcement training board to decertify an officer who has committed misconduct.
- Defines “chokehold” and prohibits the use of a chokehold under certain circumstances.
- Specifies that a law enforcement officer who turns off a body worn camera with the intent to conceal a criminal act commits a Class A misdemeanor.
- Requires an agency hiring a law enforcement officer to request the officer’s employment record and certain other information from previous employing agencies, requires the previous employing agency to provide certain employment information upon request, and provides immunity for disclosure of the employment records.
- Makes an appropriation to the Indiana law enforcement training academy for making capital improvements.

### **HEA 1025, PL 83: ENTERPRISE ZONE RENEWALS**

Author: Pressel

Sponsor: Bohacek

- Provides that an enterprise zone may be renewed for an additional five year period if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution to renew the enterprise zone.
- Provides that a zone business located in the renewed enterprise zone may only access the property tax deduction incentive.

### **HEA 1030, PL 169: REMOVAL OF A COUNTY ELECTED OFFICER**

Author: Aylesworth

Sponsor: Niemeyer

#### **Aim Comments:**

HEA 1030 adds “failing to be physically present in the county officer’s office for a reasonable amount of time each month” to the list of reasons a county executive and county fiscal body may initiate a court action to remove a county elected officer from office. The legislation provides a defense to the county officer if the officer’s absence was due to military service or serious illness of the county officer or the county officer’s spouse, parent, child, or stepchild. Under current law, action may only be initiated in court against a county elected official for neglect of duties or charging illegal fees.

HEA 1030 only applies to a county’s auditor, treasurer, recorder, surveyor, or assessor but there may be some interest in the legislature to make this apply to municipal officials in the future. Aim will continue to monitor this issue in upcoming sessions.

- Allows a county executive and county fiscal body to adopt identical resolutions to initiate a court action to remove the county’s auditor, treasurer, recorder, surveyor, or assessor (county officer) for:
  - (1) neglect of duties;
  - (2) charging illegal fees; or
  - (3) failing to be physically present in the county officer’s office for a reasonable amount of time each month. (Under current law, an action for removal of an officer may only be initiated in court on the oath of a person and for a violation described in (1) or (2)).
- Provides that it is a defense to an action for a violation described in (3) that the county officer’s absence was due to serious illness of the county officer or the county officer’s spouse, parent, child, or stepchild or military service.

### **HEA 1033, PL 28: RESIDENCY OF POLICE OFFICERS AND FIREFIGHTERS**

Author: Frye

Sponsor: Sandlin

#### **Aim Comments:**

HEA 1033 removes the existing residency requirements for city police officers and firefighters who under current law must reside within a contiguous county or within 50 miles of the city in which they work. It adds that members of city police and fire departments must 1) have adequate means of transportation into the jurisdiction served by the member’s department; and 2) maintain telephone service to communicate with the department.

This does not impact the current ability of cities with a population of less than 7,500 from adopting an ordinance with stricter residency requirements, and it does not apply to towns.

Aim supports the additional hiring flexibility for departments that are having a difficult time recruiting new police officers or firefighters. However, Aim prefers that all communities have the option to enact residency requirements if local circumstances warrant.

- Revises residency requirements for members of police and fire departments to require that members:
  - (1) have adequate means of transportation into the jurisdiction served by the member’s department; and
  - (2) maintain telephone service to communicate with the department.

### **HEA 1056, PL 2: RECORDING REQUIREMENTS**

Author: Torr

Sponsor: Liz Brown

#### **Aim Comments:**

During the 2020 session, language passed in SEA 340 that created an unintended requirement that both an acknowledgement and a proof be included on a document for recording. This created issues for everyone who routinely records documents. As a result, HEA 1056 was fast-tracked through the legislative process to fix this and return the law to prior standard practice. Effective February 18, 2021, either an acknowledgement OR a proof is needed to record a document.

- Amends the requirements for instruments and conveyances to be recorded.
- Adds instances in which an instrument is considered validly recorded for purposes of providing constructive notice.
- Defines certain terms.

## **HEA 1060, PL 13: OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

Author: Steuerwald

Sponsor: Koch

- Allows a petition for review of an agency administrative action to be filed by mail, personal service, or electronic mail. (Current law requires a petition for review to be filed by mail or personal service.)
- Provides that the filing of a document in an administrative proceeding is considered complete on the date of electronic submission if the document is sent by electronic mail.
- Allows the ultimate authority of an agency to request that the office of administrative law proceedings (office) review a motion to disqualify an administrative law judge.
- Allows the department of child services to request that the office conduct administrative proceedings on certain administrative actions related to child support and certain substantiated reports of child abuse or neglect.
- Requires the office to maintain confidentiality in administrative proceedings concerning actions by the department of child services.

## **HEA 1065, PL 14: FIRE PROTECTION TERRITORIES**

Author: Mayfield

Sponsor: Niemeyer

- Provides that the procedure for adopting an ordinance or resolution to establish a fire protection territory (territory) applies to expanding an existing territory.
- Provides that an ordinance or resolution establishing or expanding a territory must include an agreement as to the disposition of the territory's property when a participating unit withdraws or the territory is dissolved.
- Specifies that with regard to an ordinance or resolution to establish or expand a territory, the unit must hold three separate public hearings to hear public comment regarding the proposed territory before adoption of the ordinance or resolution, with the last public hearing held not later than 10 days before the ordinance or resolution is adopted.
- Establishes residency requirements for members of a joint executive board of a territory.

## **HEA 1072, PL 12: PERSONAL DELIVERY DEVICES**

Author: Sullivan

Sponsor: Garten

### **Aim Comments:**

HEA 1072 creates a statewide framework for the operation of personal delivery devices, or delivery robots, on sidewalks and roads throughout the state. Personal delivery devices may not operate on the state highway system but are authorized to operate on any sidewalk, crosswalk, road, or street of any county or municipality in Indiana.

The legislation does preempt a local government's authority to regulate:

1. The design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance of a personal delivery device; or
2. The types of property that may be transported by a personal delivery device.

Personal delivery devices must satisfy several statutory requirements that are intended to protect the safety of the public. However, there are several other items that Aim would have liked to see addressed in this legislation, including indemnification language to protect local units against liability for damage or injury caused by the devices, and to clarify that local units can set the routes on local roads and sidewalks that the devices must follow when making deliveries. Unfortunately, these provisions were not added to HEA 1072.

Aim will continue to work with stakeholders as these devices start to be deployed in Indiana

communities.

- Provides that a personal delivery device may operate in Indiana under certain circumstances, but may not operate on portions of any state route, U.S. route, or interstate highway comprising the state highway system located in a municipality.
- Requires a personal delivery device operator to maintain certain levels of insurance coverage.
- Provides that a personal delivery device is exempt from motor vehicle licensing and registration requirements.
- Provides that a political subdivision may participate in the regulation of personal delivery devices.
- Provides that local governments shall not be required to make or pay for infrastructure improvements for the purpose of better accommodating personal delivery devices.
- Provides that a political subdivision may not enact or enforce an ordinance or resolution relating to:
  - (1) the design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance of a personal delivery device; or
  - (2) the types of property that may be transported by a personal delivery device.

### **HEA 1090, PL 172: ALCOHOL MATTERS**

Author: Harris

Sponsor: Charbonneau

- Removes the requirements that:
  - (1) an oil refinery be located within a municipal lakefront development project; and
  - (2) a municipal lakefront development project must be funded in part with local, state, and federal money.
- Requires the alcohol and tobacco commission (commission) to provide notice to the city or town council and the mayor's office of the city or town in which a municipal lakefront development is located of certain hearings.
- Requires the commission to post signs indicating when and where certain hearings will take place.

### **HEA 1111, PL 18: HIGHWAY EXTENSION AND RESEARCH PROGRAM**

Author: Lindauer

Sponsor: Messmer

- Provides that local officials are required to attend any school or course conducted for local officials within the first two years of their initial term, but may (rather than shall) attend any school or course conducted for local officials after initial attendance.
- Provides that the county fiscal body shall appropriate sufficient funds to pay local officials a per diem for expenses for each day or part of a day the member is in attendance at any school or course conducted for local officials, and mileage at a rate determined by the county fiscal body for each mile traveled to attend the school.

### **HEA 1123, PL 64: LEGISLATIVE OVERSIGHT OF CERTAIN FISCAL AND EMERGENCY MATTERS**

Author: Lehman

Sponsor: Glick

#### **Aim Comments:**

HEA 1123 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 5 and SEA 263). HEA 1123 specifically addresses the scope of the Indiana General Assembly's involvement when there is an emergency declared by the Governor.

With HEA 1123, the General Assembly gives itself a new mechanism to call themselves into an

emergency session. Under current law, only the Governor can call a special session.

As the bill made its way through the legislative process, Governor Holcomb and several administration officials publicly opposed the bill, saying it unconstitutionally usurps a power given exclusively to the Governor (to call the General Assembly into a special session) and violates the separation of powers. Governor Holcomb vetoed the bill, but the General Assembly quickly overrode the veto. Shortly thereafter, the Governor filed suit against the General Assembly. A private citizen has also filed suit on behalf of Hoosier taxpayers. At the time of this document's publication, the dispute is unresolved.

Other provisions of HEA 1123 deal with legislative oversight of all federal discretionary funds that are received by the state by creating the economic stimulus fund (ESF), into which all such funds must be deposited. Funds deposited into the ESF when the General Assembly is convened cannot be allotted or spent unless appropriated by the General Assembly (or reviewed by the Budget Committee, if they are not in session).

- Specifies that the bill is severable.
- Provides that the general assembly may convene in an emergency session if the legislative council adopts a resolution making certain findings concerning a state of emergency declared by the governor.
- Specifies the maximum length of an emergency session.
- Provides that in an emergency session the general assembly may enact only bills relating to the agenda stated in the legislative council's resolution.
- Provides that the general assembly may adopt concurrent resolutions and each house may adopt simple resolutions during an emergency session.
- Establishes the legislative state of emergency advisory group.
- Creates the economic stimulus fund (ESF) for the deposit of all discretionary funds received by the state.
- Defines "discretionary funds" to mean federal economic stimulus funds received under federal legislation granting the state authority to determine the amounts and manner in which the federal economic stimulus funds may be expended. Provides that discretionary funds deposited into the ESF during a period in which the general assembly is convened in a regular session, an emergency session, or a special session may not be allotted or expended unless appropriated by the general assembly or reviewed by the budget committee.
- Provides that before discretionary funds deposited into the ESF during a period in which the general assembly is not convened in a regular session, an emergency session, or a special session may be allotted to or expended by a state agency or instrumentality, the allotment or expenditure must be reviewed by the budget committee.
- Provides that discretionary funds deposited into the ESF may not be expended, transferred, assigned, or otherwise removed from the ESF by the state board of finance, the budget agency, or any other state agency except as permitted under the provisions of the statute.
- Exempts federal economic stimulus funds obligated or expended before April 29, 2021, from the application of the statute.
- Provides that a violation of the disaster statute (IC 10-14-3) or an order authorized by that statute is a Class B infraction instead of a Class B misdemeanor.

### **HEA 1152, PL 52: UNEMPLOYMENT INSURANCE**

Author: Leonard

Sponsor: Boots

- Clarifies provisions concerning the overpayment of unemployment benefits resulting from fraud or failure to disclose wages and the forfeiture of benefits or wage credits.

### **HEA 1156, PL 35: PROHIBITION ON MICROCHIPPING EMPLOYEES**

Author: Morrison

Sponsor: Jon Ford

- Provides that the definition of an “employer” subject to the prohibition against requiring the implantation of devices includes the state or any individual, partnership, association, limited liability company, corporation, business trust, or other governmental entity or political subdivision that has one or more employees.

## HEA 1164, PL 177: VARIOUS UTILITY MATTERS

Author: Manning

Sponsor: Messmer

### **Aim Comments:**

When HEA 1164 was introduced, it contained a variety of telecom-related provisions, many of which were negotiated with the bill’s author and sponsor, Aim, other local government and utility stakeholders, and the telecommunications industry.

One section of the bill, as introduced, was designed to streamline right of way permitting and fee structures, but it would have had the effect of negatively impacting the ability of local units to properly manage public rights of way. The good news is that this section was completely removed from the bill, and the language did not pass. Aim and other stakeholders have committed to work together over the interim in an effort to find a more balanced way forward.

Unfortunately, the final version of the bill did still contain language putting new limitations on a permit authority’s ability to deny applications for new small cell (5g) poles in residential areas.

Under current law, if a residential neighborhood were designated as a buried utility area prior to May 1, 2017, an application for a new small cell to be installed in the neighborhood would be subject to a local waiver process or zoning procedure, under which the permit authority could deny the placement of a new pole. Under HEA 1164 and effective July 1, 2021, if there is any aboveground infrastructure in the designated area other than light poles and other approved small cell poles, then the permit authority no longer has the ability to deny the placement of new small cell poles under the local waiver process. The oversight is limited to public safety reasons, as it is for small cell poles elsewhere in the community.

Other language was added in this section that changes the notice process when neighborhood associations or homeowners associations request to receive notice of new small cell applications. There is also new, optional “collaboration” language for a permit authority to work with HOAs and neighborhood associations on the preferred location and aesthetics of new poles within the residential neighborhood.

The bill also prohibits permit authorities from imposing maximum height or minimum separation distance requirements on macro cell towers. Any local zoning process still applies, but any ordinances that impose these requirements across the board are not enforceable.

Another section of the bill establishes a calculation for determining nondiscriminatory, just and reasonable pole attachment fees that are being charged to cable operators by municipalities on municipally-owned electric distribution poles and by rural electric cooperatives.

- Exempts a contract for the lease of state property under which no state expenditures are required from provisions:
  - (1) requiring certain disclosures and certifications by a prospective state contractor regarding violations of Indiana telephone solicitation and automated calling statutes;
  - (2) regarding cancellation of public purchasing contracts due to lack of funds;
  - (3) regarding state contractor use of the E-Verify program; and

- (4) prohibiting state contractor employment of unauthorized aliens.
- Establishes a calculation for determining nondiscriminatory, just, and reasonable rental fees charged by:
  - (1) rural electric cooperatives; and
  - (2) municipalities providing electric service; that own or control electric distribution poles for attachments to those poles by cable operators.
- Sets forth rights and duties of pole owners and attaching entities with respect to:
  - (1) unauthorized pole attachments; and
  - (2) pole attachment transfers and relocations.
- Provides that the Indiana utility regulatory commission (IURC) may not require a communications service provider to:
  - (1) file a tariff; or
  - (2) report to the IURC any information that is:
    - (A) available to the public on the communications service provider's Internet web site;
    - (B) filed with the FCC; or
    - (C) otherwise available to the public; except as required by the IURC to respond to consumer complaints or information requests from the general assembly.
- Makes the following changes to the statute concerning permits for wireless service providers:
  - (1) Amends the factors that must exist for a permit authority to prohibit the placement of a new utility pole or wireless support structure in connection with the construction, placement, or use of a small cell facility in areas designated strictly for underground or buried utilities.
  - (2) Provides that neighborhood associations, homeowners associations, and homeowners may request to be notified of applications by communications service providers for certain permitted uses of the rights-of-way in those designated areas, in addition to requesting notice of applications for new utility poles or new wireless support structures (as provided under current law).
  - (3) Sets forth a procedure by which a permit authority may elect to collaborate with a neighborhood association or a homeowners association to adopt neighborhood specific guidelines on the preferred location and reasonable aesthetics of new utility poles or new wireless support structures within the neighborhood association's or homeowners association's jurisdiction.
  - (4) Provides that a permit authority may not impose:
    - (A) a restriction on maximum height of a wireless support structure, subject to certain federal regulations and state laws; or
    - (B) a requirement regarding minimum separation distances between wireless support structures.
- Provides that a tariff filed with the IURC by a communications service provider is effective upon filing.
- Provides that a communications service provider may access public rights-of-way under the control of a county or municipality to the same extent as a public utility.
- Provides that a video service provider is not required to provide the IURC with information describing the provider's programming, including the provider's channel lineups or channel guides.
- Exempts a political subdivision's disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider from certain provisions regarding disposal of property by a political subdivision.
- Provides an exemption to the public works law for certain work done by the employees of a conservancy district established for the purpose of water or sewage treatment.

**[HEA 1166, PL 178: TAX REPRESENTATIVES AND ASSESSOR COMPETENCY](#)**

Author: Soliday

Sponsor: Holdman

- Provides that certified level two assessor-appraisers and certified level three assessor-appraisers may serve as tax representatives under certain circumstances.
- Provides that a taxpayer may submit a written complaint to the department of local government finance if the taxpayer has reason to believe the assessing official failed to adhere to Uniform Standards of Professional Appraisal Practice or does not have the necessary competency to perform the assessment.
- Provides that notice of a taxpayer's right to submit a written complaint must be included on the taxpayer's notice of assessment or reassessment.

## **HEA 1169, PL 134: CYBERSECURITY INCIDENTS**

Author: Karickhoff

Sponsor: Crider

### **Aim Comments:**

HEA 1169 is designed to establish the Indiana Office of Technology (IOT) as a central clearinghouse for reporting on cybersecurity incidents for all Indiana local governments.

Under HEA 1169, state agencies and political subdivisions are required to report cybersecurity incidents to the Indiana Office of Technology (IOT) within two business days after discovery of an incident. This will allow the IOT to understand and communicate to local governments what threats are hitting their peers and best practices for avoiding them. Political subdivisions also need to provide the IOT with the name and point of contact for cybersecurity incidents before September 1, 2021, and before September 1 of every year thereafter.

The goal is for the IOT, in the long run, to use this repository of information to develop technical assistance to local governments on cybersecurity threat management and remediation. The bill also allows the IOT to develop and share with political subdivisions a list of third-party technology providers that work with the IOT.

The IOT brought this proposal to Aim prior to the legislative session and incorporated feedback from our members and others in the crafting of this bill throughout the process.

- Requires the office of technology to maintain a repository of cybersecurity incidents.
- Provides that a state agency and a political subdivision shall:
  - (1) report any cybersecurity incident to the office without unreasonable delay and not later than two business days after discovery of the cybersecurity incident in a format prescribed by the chief information officer; and
  - (2) provide the office with the name and contact information of any individual who will act as the primary reporter of a cybersecurity incident before September 1, 2021, and before September 1 of every year thereafter.
- Allows the office of technology to assist a state agency with certain issues concerning information technology.
- Provides that if requested by a political subdivision, the office may develop a list of third party technology providers that work with the office.
- Requires a state educational institution to submit a quarterly analysis with certain conditions.
- Makes conforming changes.

## **HEA 1191, PL 180: ENERGY MATTERS**

Author: Pressel

Sponsor: Koch

### **Aim Comments:**

HEA 1191 preempts local units of government from proscribing design standards on construction

in their jurisdiction that requires certain materials to be used for the purposes of energy savings. This is similar in concept to a much broader bill that was introduced but did not pass which would have preempted the regulation of all design elements on residential structures. Although written more narrowly, HEA 1191 calls into question the ability of communities to enforce certain design and material regulations that have an energy-savings component.

HEA 1191 also preempts local units of government from prohibiting certain types of energy sources in new construction. This is part of a national movement to “ban the ban” on natural gas in new buildings after a handful of cities across the country started to ban natural gas hookups in new buildings.

- Provides that a county executive or the legislative body of a city or town does not have the power to prohibit:
  - (1) a public utility or department of public utilities from furnishing utility service to a utility customer; or
  - (2) a customer of a public utility or department of public utilities from purchasing, using, or connecting or reconnecting to a utility service; based on the energy source of the utility service.
- Defines a “federal phaseout mandate” as any federal statutory or regulatory requirement that:
  - (1) is established after April 20, 2021, by Congress, a federal agency, or a federal executive order; and
  - (2) requires the phaseout or discontinuance of a particular type of electric generating facility, technology, or fuel source.
- Requires the utility regulatory commission to consider in the context of:
  - (1) applications for certificates of public convenience and necessity for new generating facilities; and
  - (2) integrated resource planning; the impact of federal phaseout mandates on the estimated useful life of certain generating facilities of an electric utility, including on depreciation expense associated with such facilities.
- Provides that, except for purposes of compliance with specified building and fire safety laws, a local unit does not have the power to:
  - (1) require that a particular component, design, or type of material be used in the construction of a building because of the energy saving or energy producing qualities of the component, design, or material;
  - (2) prohibit the use of a particular component, design, or type of material in the construction of a building because the component, design, or material does not meet an energy saving standard;
  - (3) require that a building or structure be retrofitted with a particular device or type of material because of the energy saving or energy producing qualities of the device or material;
  - (4) prohibit or restrict the purchase or use of vehicles based upon the type of energy used; or
  - (5) prohibit the sale, installation, or use of:
    - (A) natural gas powered:
      - i. home heating equipment;
      - ii. home appliances; or
      - iii. outdoor heating appliances, torches, lamps, or other decorative features; or
    - (B) outdoor grills and stoves.
- Specifies that:
  - (1) this prohibition does not apply with respect to requirements included in procurement documents used to procure goods and services, including the construction or design of buildings, to be owned or used by a local unit; and
  - (2) a local unit may adopt bid specifications for a public works project that include energy savings or energy production provisions with respect to the components, design, or materials for the specific project.

## **HEA 1231, PL 19: LIEN REMOVAL FEES**

Author: Saunders

Sponsor: Niemeyer

- Provides that a political subdivision is required to pay a \$25 fee to a county recorder for the recording of a release of a lien or liens held by the political subdivision on a parcel:
  - (1) for which a certificate of sale is sold; or
  - (2) that is disposed of by a political subdivision; regardless of the number of liens the political subdivision holds on the parcel.
- Provides that if a county containing a consolidated city has:
  - (1) established a housing trust fund; and
  - (2) adopted an ordinance authorizing a \$10 recording fee per document for deposit in the housing trust fund; the county recorder may charge the \$10 recording fee per document in addition to the \$25 fee for the recording of a release of a lien or liens held by a political subdivision.
- Provides how a county recorder must deposit fees collected for the recording of a release of a lien or liens held by a political subdivision.

## **HEA 1238, PL 58: NORTHEAST INDIANA DEVELOPMENT COMMISSION**

Author: Heine

Sponsor: Holdman

- Establishes the northeast Indiana strategic development commission (commission) as a body corporate and politic.
- Provides for appointment of members of the commission.
- Specifies the purposes of the commission.

## **HEA 1271, PL 38: DEPARTMENT OF LOCAL GOVERNMENT FINANCE**

Author: Leonard

Sponsor: Bassler

### **Aim Comments:**

HEA 1271 is the annual agency bill for the Department of Local Government Finance (DLGF). This 134-page bill contains a wide variety of provisions, many of which were initiated by the DLGF as part of their effort to streamline agency processes and others which were brought by individual stakeholders to address local situations. Some of the significant provisions include:

- Aim-initiated language that raises the cap on how much of a local government's budget can be transferred to the Rainy Day Fund in any year from 10% to 15% through 2024, allowing local units to save more general fund dollars while federal stimulus funding is available.
- A prohibition on any future "pancake TIF," where a parcel is included in more than one allocation area after a municipality annexes property that is already in a county TIF area and then layers a new municipal TIF area on the same property.
- An expansion of the ability for political subdivisions to sell bonds at a negotiated sale to include all counties, townships, cities, towns, and school corporations, and an extension on the sunset date of this provision to July 1, 2023 (previously, was set to expire on July 1, 2021).

Because legislation such as HEA 1271 changes certain deadlines or procedures that must be followed when interacting with the DLGF and other state agencies, keep an eye out for all DLGF notices and/or refer to Aim's [Budgeting Assistance](#) information, including the annual [Aim Budget Bulletin](#) during the budgeting process.

- Provides under multiple remonstrance provisions that the department of local government finance (DLGF) may either hold a hearing in the affected county or through electronic means.
- Provides that the state board of accounts is accountable to the legislative council.

- Defines the term “nonconforming” for certain property tax purposes.
- Provides that consent to receive notice of a personal property tax assessment via electronic mail remains in effect unless revoked during the preceding year.
- Replaces the term “railroad car company” with the term “railcar company” for property tax purposes.
- Provides that the DLGF may amend certain public utility assessment administrative rules to reflect statutory changes.
- Provides that the fiscal officer of a political subdivision shall provide the DLGF with a report of any annexations that took place within the county during the preceding year.
- Provides rules and procedures for school corporation budget adoption meetings and hearings.
- Provides that for certain actions taken by the DLGF on tax levies and budgets of a political subdivision, the DLGF shall certify its action to the:
  - (1) state board of accounts;
  - (2) auditor of state; and
  - (3) department of state revenue; if the budget and levy of the political subdivision are being continued.
- Provides that 25 taxpayers of a political subdivision must sign a written request for certain public hearings on budgets, tax rates, or tax levies.
- Provides that a political subdivision shall include an appropriation for bond proceeds in its budget for the ensuing year.
- Provides procedures for the Goshen public library.
- Requires the county auditor of the county in which a political subdivision or school corporation proposes to impose property taxes to determine the:
  - (1) estimated average percentage of property tax increase on a homestead to be paid to the political subdivision or school corporation; and
  - (2) estimated average percentage of property tax increase on a business property to be paid to the political subdivision or school corporation.
- Provides a formula for making the estimated average percentage of property tax increase determinations.
- Provides that the DLGF may establish fair and reasonable fees for level three assessor-appraiser examinations and certifications.
- Provides that a parcel of land may not be included in more than one allocation area under several provisions going forward.
- Provides that a district that does not impose a levy under certain circumstances shall give notice of the hearing on the proposed budget and submit the adopted budget in the manner prescribed by the DLGF.
- Provides that the budget of a district that does not impose a levy may not be considered subject to review by the DLGF.
- Provides that for cumulative fund tax levy procedure purposes, if a cumulative fund that has been established in a prior year is not reestablished and the tax rate is not properly certified, the political subdivision may not increase a tax rate for the cumulative fund for the ensuing year.
- Provides that a political subdivision that decides to establish a cumulative fund must give notice in the form required by the DLGF.
- Provides that the DLGF is not required to hold a cumulative fund tax levy public hearing unless the petition expressly alleges that the political subdivision failed to comply with certain procedural requirements.
- Provides that after a political subdivision complies with the cumulative fund tax levy procedural rules, a property tax may be levied annually at the rate adopted by the political subdivision and certified by the DLGF.
- Provides that distributions from the financial institutions tax fund may be used for any legal purpose.
- Provides that a county’s distribution of the commercial vehicle excise tax may be used for any

legal purpose.

- Amends review procedures for conservancy district budgets.
- Provides that for education emergency loans and anticipatory warrants, a governing body may not increase the debt service fund levy to pay for the interest on the loans or warrants unless the loans or warrants have been issued, and the school corporation has received the proceeds from the loans or warrants.
- Provides that a governing body may not authorize an education emergency loan for the purpose of increasing the school corporation's property tax rate for the ensuing budget year.
- Provides that for temporary education loans, a board of school trustees, including an Indianapolis public school board, may not impose a levy to pay for the interest on the loans from a debt service fund unless the loan has been issued, and the school town or school city has received the loan proceeds.
- Provides that a board of school trustees may not authorize a temporary loan for the purpose of increasing the school town or school city's property tax rate for the ensuing budget year.
- Provides that a county auditor shall forward a list of disannexed lots or lands, as well as a copy of any annexation ordinance, to the DLGF not later than August 1.
- Provides for uses of revenue from the Henry County food and beverage tax.
- Extends the sunset date for provisions that permit certain political subdivisions to sell bonds at a negotiated sale from July 1, 2021, to July 1, 2023, and includes all counties, townships, cities, towns, and school corporations under those provisions.
- Provides that if a remonstrance or objection is filed or raised by an aggrieved person and the:
  - (1) lands of the aggrieved person do not abut any other public way other than the public way to which a vacation petition applies; or
  - (2) vacation of the public way would cause the lands of the aggrieved person to become landlocked with no other convenient or reasonable means of ingress or egress via another public way; the appropriate legislative body shall deny the petition to vacate the public way.
- Authorizes the town of Winfield and the town of LaGrange to petition the department of local government finance to increase its maximum permissible ad valorem property tax levy in 2022.
- Provides that if a substantial amount of real and personal property in a township has been physically destroyed as a result of a disaster, the county assessor shall order a reassessment of the destroyed property if a petition for reassessment is filed.
- Provides that a sale of aviation fuel is exempt from the aviation fuel excise tax if the aviation fuel is dispensed into an aircraft owned by a certified aerial applicator performing agricultural operations.
- Provides that money accumulated from the Marshall County additional tax rate for criminal justice facilities, after the tax imposed is terminated, shall be transferred to the county jail fund to be established by the county auditor.
- Provides that funds accumulated from the Perry County additional rate for county jail and related buildings after:
  - (1) the redemption of bonds issued; or
  - (2) the final payment of lease rentals due; shall be transferred to the county jail operations fund to be used for financing the maintenance and operations of the Perry County detention center.
- Provides that \$2 from each marriage certificate fee collected shall be deposited in the clerk's record perpetuation fund.
- Increases the:
  - (1) bailiff's service of process by registered or certified mail fee; and
  - (2) cost for the personal service of process by the bailiff or other process server; from \$13 to \$15.
- Increases the amount that a political subdivision may transfer into its rainy day fund from 10% to 15% during calendar years 2021 through 2024.
- Expands the authority of municipalities to annex noncontiguous territory to territory that is

occupied by a solar electric generating facility that is or will be interconnected to an electric utility owned by the municipality.

- Amends the definition of “economic improvement project” under the economic improvement districts chapter.
- Adds a provision relating to allocation of tax distributions with regard to fire protection territories.
- Provides that a qualified taxpayer that files an exemption application before September 1, 2021, will be considered to have timely filed exemption applications for various prior years.

### **HEA 1283, PL 188: URBAN AGRICULTURAL ZONES**

Author: Harris

Sponsor: Messmer

- Provides that a qualifying farmer may apply to a designating body to have an area designated as an urban agricultural zone.
- Provides that the term “urban agricultural zone” does not include rooftop gardening or farming practices that occur on the top of a building or residential home.
- Provides that a designating body, before designating an area as an urban agricultural zone, must hold a public hearing and allow for public comment.
- Provides that a designating body may exempt lands located partially or wholly within an urban agricultural zone from property taxation.
- Specifies that a designating body may not impose a special benefit tax for public services provided to an urban agricultural zone, unless the designating body imposed the special benefit tax before it designated the area as an urban agricultural zone.

### **HEA 1285, PL 111: BUREAU OF MOTOR VEHICLES**

Author: Lindauer

Sponsor: Garten

- Provides that the bureau of motor vehicles (bureau) shall remit certain taxes not more than 21 days after the collection of the tax.
- Provides that in the first year an amended surtax or wheel tax rate is effective, the prior surtax or wheel tax rate (as applicable) for the previous calendar year applies to vehicle registrations.
- Provides that the definition of “credential” includes any form of documentation in physical form or digital form accessible on a mobile device issued by the bureau.
- Changes the definition of a motor driven cycle to the current definition of a Class B motor driven cycle.
- Provides that the bureau of motor vehicles commission is protected by the Indiana Tort Claims Act.
- Expands the types of transactions that the bureau may perform on election day with priority given to credential related transactions.
- Provides that the bureau may no longer collect fees associated with Riverlink tolls. (Current law provides for the bureau to accept payments for Riverlink tolls.)
- Provides that temporary license plates may be displayed in the rear window of a vehicle, rather than affixed to the rear of the vehicle.
- Removes the requirement that the bureau report to law enforcement if a license plate or other proof of registration is lost.
- Provides that temporary delivery permits may be displayed on a vehicle in a manner determined by the bureau.
- Provides that a person who becomes an Indiana resident and owns a watercraft must register the watercraft not later than 60 days after becoming an Indiana resident.
- Provides that a person who fails to register a watercraft within the 60 days after becoming an Indiana resident is subject to an administrative penalty of \$15 and commits a Class C infraction.
- Provides that a motor driven cycle may not be operated unless the vehicle is registered as a motor driven cycle.

- Provides that a holder of a learner's permit may operate a motor driven cycle.
- Provides that the bureau may charge a fee of \$25 for expediting certain credentials.
- Provides that the bureau shall suspend driving privileges or invalidate the learner's permit of an individual who is at least 15 years of age and less than 18 years of age in certain situations.
- Replaces the term "operator's license" with the term "driver's license".
- Requires that an individual who has completed driver rehabilitation training hold a learner's permit.
- Provides that an individual who has signed the application of a minor applicant for a permit or driver's license may subsequently file with the bureau, and be granted, a verified written request that the permit or driver's license expire.
- Allows the bureau to renew a learner's permit, rather than issuing a new learner's permit.
- Allows an individual to renew a learner's permit online.
- Provides that the bureau may approve third parties to conduct skills exams.
- Removes the provision allowing a licensed driver or an applicant for an initial or renewal driver's license, permit, or endorsement to appeal an action taken by the bureau to revoke or modify the person's driving privileges for medical reasons to the circuit or superior court of the county where the licensed driver or applicant resides prior to exhausting an administrative appeal.
- Requires individuals to complete driver's safety programs in certain instances.
- Requires the bureau to implement suspensions for an individual who fails to attend and complete required programs.
- Allows the bureau to contract with physicians to increase the number of reviewers for medical case files to support and provide recommendations on the revocation of a license for an individual with underlying health conditions.
- Removes the requirement for special groups to obtain 500 signatures when reapplying for the special group recognition license plate every 10 years.
- Decreases the number of days a new resident under 18 years of age is required to hold an out-of-state license to 60 days. (Current law requires that a new resident under 18 years of age hold an out-of-state license for 180 days.)
- Provides that courts must submit the probable cause affidavit in a form and manner prescribed by the bureau.
- Provides that the bureau shall not place any indication on certain credentials issued by the bureau of the vaccination status of an individual.
- Provides that the bureau shall not request information regarding the individual's vaccination status or proof of immunity when an individual applies for a credential.
- Provides that the bureau shall not maintain a data base regarding an individual's vaccination status or proof of immunity.
- Provides that the bureau shall not connect any bureau data base with any data base that tracks an individual's vaccination status or proof of immunity.
- Repeals the requirement to request a certificate of compliance for proof of financial responsibility if a motor vehicle accident occurred at least five years prior to the date the bureau receives the copy of the accident report.
- Provides that the bureau may enter into an agreement with the office of administrative law proceedings to conduct reviews on the bureau's behalf.
- Makes conforming changes.

## **HEA 1287, PL 189: WATER OR WASTEWATER SERVICE**

Author: Pressel

Sponsor: Jon Ford

- Allows a water or wastewater utility to extend service to a developed but underserved area without a deposit from customers if the extension of service will result in a positive contribution to the utility's overall cost of service over a 20 year period.
- Provides that the extension of service will be considered as resulting in a positive contribution to the utility's overall cost of service over a 20 year period to the extent that rates to be paid by

50% or more of the customers who could be served by the extension of service would enable the utility to fully recover the weighted cost of debt and depreciation expense attributable to the cost of the main extension for the extension of service.

- Provides that if a water or wastewater utility determines that an extension of service will not result in a positive contribution to the utility's overall cost of service over a 20 year period, the utility may require a deposit or other adequate assurance of performance from the customers to be served by the extension of service.
- Provides that if a property owner makes an improvement to the property owner's dwelling, the property owner is not required to upgrade or discontinue use of the property's septic tank soil absorption system or to connect to a sewer system if the improvement does not include the addition of a bedroom or bedroom equivalent and the property owner receives a written determination from a qualified inspector that the septic tank soil absorption system is not failing.
- Provides that if a tract of land is located within the boundaries of a conservancy district established for sewage purposes, no structure located on the tract of land is connected to or served by the conservancy district's sewage service, the tract of land has been annexed by a municipality that will provide sewer service to the tract of land, and other conditions are met, the owner of the tract of land may petition the court that established the conservancy district for the removal of the tract of land from the boundaries of the conservancy district.

### **HEA 1309, PL 87: PREGNANCY ACCOMMODATION**

Author: Engleman

Sponsor: Alting

- Allows an employee to request an accommodation for the employee's pregnancy.
- Requires an employer to respond to an employee's request for an accommodation within a reasonable time frame.
- Provides that a request for accommodation does not require an employer to provide an accommodation for an employee's pregnancy, or impose a duty or obligation upon the employer to provide an accommodation or an exception to the employer's policies unless existing federal or state laws require that an accommodation must be made.
- Prohibits an employer from disciplining, terminating, or retaliating against an employee because the employee has requested or used an accommodation for the employee's pregnancy.

### **HEA 1353, PL 192: RELIGIOUS USE PROPERTY TAX EXEMPTION**

Author: Speedy

Sponsor: Freeman

- Requires a sales disclosure form to include an attestation that a property transferred will continue to be used by a church or religious society for the same tax exempt purpose.
- Provides that a county assessor that reasonably suspects that property transferred is no longer being used by a church or religious society for the same tax exempt purpose may request articles of incorporation or bylaws to confirm the attestation included in the sales disclosure form.
- Provides that the request for articles of incorporation or bylaws to confirm the attestation must:
  - (1) be made in writing; and
  - (2) include a written explanation of the assessor's reasonable suspicion describing why the assessor believes that the property transferred is no longer being used by the church or religious society for the same tax exempt purpose.
- Specifies that the provisions in the bill apply to transactions occurring after December 31, 2021.
- Provides that when an exempt property owned by a church or religious society is transferred to another church or religious society to be used for the same exempt purpose, the transferee church or religious society is not required to file an exemption application with the county assessor.

- Provides that if the property remains eligible for the exemption, the exempt status carries over to the transferee church or religious society.

### **HEA 1356, PL 114: PERMANENT TRAILER REGISTRATION**

Author: Wesco

Sponsor: Doriot

- Defines “permanent registration” for purposes of motor vehicles.
- Provides that the owner of a trailer that weighs 3,000 pounds or less may apply to the bureau of motor vehicles (bureau) for a permanent registration for a fee of \$82.
- Requires the owner of a trailer that applies to the bureau for a permanent registration to pay twice the amount of the surtax otherwise due when the owner obtains a permanent registration.
- Provides that the owner of a trailer that obtains a permanent registration is not subject to additional surtax payments.

### **HEA 1365, PL 193: VARIOUS ELECTIONS MATTERS**

Author: Wesco

Sponsor: Jon Ford

- Defines “anomaly” and amends the definitions of “ballot label,” “de minimis change,” “electronic poll book,” and “state office”.
- Requires the entry of filing information concerning all candidates into the statewide voter registration system.
- Requires, for voting systems initially certified for marketing and use in Indiana after January 1, 2022, certain universally recognized symbols of a candidate’s legal name to be displayed.
- Allows the secretary of state to provide parts and reports from the voter registration system information from the computerized list to law enforcement officials conducting an investigation if certain requirements are met.
- Requires election certification documents to be filed only through the statewide voter registration system.
- Provides that the precinct judge performs the duties of a precinct election sheriff under certain circumstances.
- Allows the cancellation of the registration of a deceased person based on a notice published by a funeral director or embalmer on the Internet web site of the funeral director or embalmer.
- Describes the process by which the name of an Indiana resident who has been imprisoned for conviction of a crime in another state is removed from the voter registration list.
- Provides that a person is disqualified from assuming or being a candidate for an elected office if the person is a nonjudicial court employee who would violate Rule 4.6 of the Indiana Code of Judicial Conduct by being the candidate of a political party for nomination or election to an elected office or a political party office.
- Makes changes to the formatting of nonpartisan judicial offices on the ballot.
- Provides that a candidate is considered affiliated with a particular political party for purposes of determining whether the candidate is qualified to be on that party’s primary election ballot if the two most recent primary elections in which the candidate voted were primary elections held by the political party with which the candidate claims affiliation. (Under current law, only the most recent primary election that the candidate voted in must have been held by the political party with which the candidate claims affiliation.)
- Requires ballots to have precinct numbers or designations.
- Requires retention of electronic poll book information for the same retention period as other election records.
- Provides that ballot proofs be made available for inspection 67 days before the date of the election.
- Permits a county election board to authorize the use of absentee ballots by voters when a state disaster emergency is declared or a county disaster emergency is declared within 11 days of an election.

- Requires that an absentee ballot application requesting that an absentee ballot be sent by mail or by traveling board submitted to a county using the statewide voter registration system must include a telephone number to contact the applicant; permits the applicant to include the applicant's electronic mail address.
- Provides that if an application for an absentee ballot is denied, the county election board must provide the voter in writing with the reasons for the denial of the application. (Under current law, only absent uniformed services voters or overseas voters are required to be provided with notice of denial of an absentee ballot application.)
- Provides that, with certain exceptions, an individual must be a citizen of the United States to be permitted in the polls during an election and authorizes the secretary of state to grant exceptions.
- Authorizes a voter board visiting a voter with an illness or injury or a voter who is caring for a confined person at a private residence to use an electronic poll book.
- Specifies the procedure when a voter leaves the clerk's office or satellite office without casting the voter's absentee ballot for the vote to be cast by the absentee voter board.
- Specifies the requirements for the timing and security of the bipartisan initialing of absentee ballots.
- Increases the amount of time a voter has to vote in a primary election from three minutes to five minutes and the amount of time to vote in a general, municipal, or special election from two minutes to four minutes.
- Adds requirements for testing of voting systems before an election.
- Specifies the procedure requiring the reporting of problems experienced with voting systems or electronic poll books.
- Adds requirements for disposing of voting system units.
- Requires a voting system to contain features to ensure that unauthorized software has not been installed on the equipment, and to permit the electronic adjudication of voter intent on ballots cast using the voting system.
- Provides that any electronic device used to create a ballot file or program a voting system, or used with election management software, may not be connected to the Internet.
- Requires the Voting System Technical Oversight Program to conduct random audits of voting systems and electronic poll books in odd-numbered years.
- Requires a precinct election officer, in the case of a voter who casts a provisional ballot, or an absentee voter board, in the case of a voter who casts an absentee ballot that is treated as a provisional ballot, to provide both orally and in writing an explanation of the steps the voter must take in order to have the voter's ballot counted.
- Requires the election division to prescribe the form of the explanation.
- Requires the circuit court clerk to notify a voter who casts a provisional ballot not later than three days after election day concerning:
  - (1) the reasons that the voter's ballot is being treated as a provisional ballot;
  - (2) what actions, if any, that the voter must take in order to have the voter's ballot counted;
  - (3) the deadline by which the voter must act to have the voter's ballot counted; and
  - (4) certain contact information that the provisional voter may use to find out about the provisional voter's ballot.
- Requires that the notice must be in a form prescribed by the election division.
- Specifies procedures for the return of an electronic poll book or a voting system from the polls of the precinct or from the vote centers after the close of the polls on election day.
- Extends the deadline for filling a post-primary candidate vacancy from noon on June 30 to noon on July 3 and after July 3 in case of certain successful challenges to a candidate.
- Amends procedures for candidate filings to fill ballot vacancies in certain cases.
- Updates statutes setting schedules for upcoming elections.
- Repeals the current statute concerning the referral of a disputed ballot to a judge when a recount or contest has not been filed.
- Makes technical changes.

- Makes conforming amendments.
- Repeals obsolete provisions.

### **HEA 1372, PL 133: 2021 REGULAR SESSION OF THE GENERAL ASSEMBLY**

Author: Barrett

Sponsor: Raatz

- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
- Provides that the regular technical session statute does not apply in calendar year 2021.
- Specifies the deadlines for signing enrolled acts and presenting them to the governor for bills passed after April 19, 2021, and before May 1, 2021.
- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
  - (2) That for 2021, the prohibited period concerning fundraising activities is through April 29, 2021, rather than the date on which the general assembly adjourns sine die.
  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
  - (4) The certification and distribution process for enrolled acts and the time frame for the process in 2021 will take place as usual.
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)

### **HEA 1396, PL 194: ALCOHOLIC BEVERAGES AND TOBACCO**

Author: Smaltz

Sponsor: Alting

- Provides that if any provision, or application of any provision, concerning the manufacture, importation, distribution, or retail sale of alcoholic beverages is deemed to be in conflict with federal law or unconstitutional, certain alcoholic beverage laws shall be construed to limit rather than expand the manufacture, importation, distribution, and retail sale of alcoholic beverages through a three-tier system.
- Provides a definition of “three-tier system”.
- Defines the term “channel price”.
- Allows a wholesaler to offer a channel price to a retailer if certain conditions are met.
- Amends the “entertainment complex” definition.
- Provides that the alcohol and tobacco commission (commission) has additional powers with regard to tobacco.
- Provides that certain references to alcoholic beverages in bottles include alcoholic beverages in containers.
- Modifies certain dates concerning alcohol retailer and dealer permits that are deposited with the commission and that may revert to the commission if the permit does not become active.
- Requires the disclosure of the names of the officers of a corporation or other entity applying for a permit in a published notice or Internet web site.
- Adds requirements for a permit holder when making an initial request for deposit of a permit.
- Eliminates Indiana residency requirements for retailers, dealers, and brewers.
- Provides that residential delivery by a beer retailer, liquor retailer, or wine retailer may only be performed by the permit holder or an employee who holds an employee permit.
- Requires a permit holder to maintain a written record of each delivery for at least one year that shows the customer’s name, location of delivery, and quantity sold.
- Provides for “grab and go stores” that are accessible only by ticketed event attendees and

provide self-service sales of alcoholic beverages in addition to sales of food and nonalcoholic beverages.

- Provides that certain provisions of the food master hall permit section do not apply to a food hall that:
  - (1) is located in a certified technology park; and
  - (2) operates in a certain type of building or complex of buildings.
- With certain exceptions, requires a permit applicant to provide the name and address of each person or entity holding at least a 2% interest in the permit and business.
- Removes the requirement that the department of local government finance consent to the continuation of a permittee's business by the permittee's heir.
- Requires a municipality to notify the chairman of the commission of any retailer or dealer premises annexed into the municipality, in order to ensure the correct distribution of excise funds.
- Allows the holder of a food hall vendor's permit and a retailer's permit who also holds a permit for a small brewery, a farm winery, or an artisan distillery to sell certain carry out alcoholic beverages at the retailer's permit premises.
- Provides that a farm winery may place wine in bottles or other permissible containers.
- Allows a farm winery to sell wine by the can.
- Allows a farm winery to transfer wine from a storage facility or certain locations.
- Allows a farm winery to sell or transfer wine directly to a wine wholesaler.
- Provides that an artisan distiller may transfer liquor from a separate storage facility back to the artisan distiller.
- Allows an artisan distiller to sell or transfer liquor directly to a liquor wholesaler.
- Makes technical corrections and stylistic changes.

## **HEA 1405, PL 196: INSURANCE MATTERS**

Author: Carbaugh

Sponsor: Zay

### **Aim Comments:**

HEA 1405 contains a variety of insurance-related matters, but language was added in conference committee that prohibits the state and local governments from issuing or requiring an "immunization passport," which is defined as written, electronic, or printed information regarding an individual's immunization status. Government agencies can continue to keep immunization records for public health administration and to provide people with their own immunization records.

When Indiana University announced a COVID-19 vaccination requirement for all students and employees, the Attorney General issued an opinion that such a policy is illegal under this new law.

Although this ban applies to the state and to local governments, it does not apply to private businesses. Similar language has passed in several other states.

- Allows the office of the secretary of family and social services to apply for a Medicaid state plan amendment to allow school corporations to seek Medicaid reimbursement for medically necessary, school based Medicaid covered services that are provided under federal or state mandates.
- Specifies possible services for Medicaid reimbursement.
- Adds physical therapy to the list of services for which a school psychologist may refer a student.
- Establishes the long term care insurance partnership program and requires the office of the secretary of family and social services to apply before September 1, 2021, for a Medicaid state plan amendment that would:
  - (1) provide for the establishment of the new long term care insurance partnership program and the discontinuance of the current long term care program; and

- (2) ensure that an individual who purchased a qualified long term care policy under the current program will be eligible for an asset disregard even if the current program is discontinued and even though the policy was issued before the date of the state plan amendment, is not tax qualified, and does not meet the standards of Section 6021 the federal Deficit Reduction Act.
- Provides that if approval is not given for the state plan amendment, the new long term care insurance partnership program is not established and the office and the department of insurance shall study ways to improve the affordability and cost effectiveness of the current program.
  - Requires an audit examining prescription drug cost sharing for the Medicaid program once every three state fiscal years.
  - Provides that the county sheriff may receive reimbursement from a nonincarcerated person's health coverage for providing nonemergency transport of the person to a facility for a mental health detention.
  - Requires a provider to provide the health records requested by a patient within 30 days after the date the written request is made, unless the provider seeks an extension of not more than 30 days and informs the patient in writing of the reasons for the extension and the date by which the provider will provide the health records.
  - Prohibits the state or a local unit from issuing or requiring a COVID-19 "immunization passport" (a document concerning an individual's immunization status).
  - Allows a nonprofit association of cities and towns to participate in the state aggregate prescription drug purchasing program.
  - Adopts the physical therapy licensure compact.
  - Provides that if a resident insurance producer completed more than 24 hours of credit in continuing education courses before the effective date of the producer's last license renewal, not more than 12 of the excess hours of credit for those continuing education courses may apply toward satisfaction of the continuing education requirement for the producer's next license renewal, subject to certain restrictions.
  - Prohibits a pharmacy benefit manager (PBM) from:
    - (1) imposing limits on a pharmacy's access to medication that differ from those existing for a PBM affiliate; or
    - (2) sharing any covered individual's information, except as permitted by the federal Health Insurance Portability and Accountability Act (HIPAA).
  - Prohibits the inclusion of certain provisions in a contract between a PBM and an entity authorized to participate in the federal 340B Drug Pricing Program, with certain exceptions.
  - Requires a PBM:
    - (1) to update the PBM's maximum allowable cost list at least every seven days;
    - (2) to determine that a prescription drug is not obsolete, is generally available for purchase by pharmacies, and is not temporarily unavailable, listed on a drug shortage list, or unable to be lawfully substituted before placing the prescription drug on a maximum allowable cost list.
  - Provides that:
    - (1) if a PBM approves an appeal concerning maximum allowable cost pricing, the PBM must notify each pharmacy in the PBM's network that the maximum allowable cost for the drug has been adjusted; and
    - (2) if a PBM denies an appeal, the PBM must provide the reason for the denial and other information, and the appealing pharmacy or other entity may then file a complaint with the department of insurance (department).
  - Also allows a contracted pharmacy or pharmacy services administrative organization to file a complaint with the department if it believes that its contract with a PBM contains an unlawful contractual provision.
  - Provides that a PBM's violation of these requirements or prohibitions is an unfair or deceptive act or practice in the business of insurance.

- Amends code sections requiring an insurer to “deliver” or “provide” certain notices within a certain time period to make those sections provide instead that the insurer is required to “mail” the notices.
- Provides that if a party procures a policy of insurance through an online platform:
  - (1) the party affirmatively consents to have all notices and other documents related to the policy delivered to the party electronically; and
  - (2) other statutory prerequisites to the electronic delivery of notices do not apply.
- Provides that a merchant or other seller that acts as an agent for purposes of the sale of an auto service contract is not a person contractually obligated under the service contract by virtue of acting as the seller.
- Provides, as an exception to the general prohibition against rebates, that:
  - (1) an insurer, an employee of an insurer, or a producer may offer and give gifts of limited value in connection with marketing of insurance and may conduct a drawing for prizes of limited value;
  - (2) an insurer, through its employees, affiliates, insurance producers, or third-party representatives, may provide, for free or at a discount, products or services that relate to or are provided in conjunction with a policy and are exclusively intended to educate about, assess, monitor, control, or prevent risk of loss;
  - (3) a person holding an insurance license may offer or provide, for free or for less than fair market value, services that are at least tangentially related to an insurance contract but are not contingent upon the purchase of insurance, subject to certain conditions.
- Amends the law requiring an insurer to provide 10 days’ advance notice to the insurance producer who procured an automobile policy when the insurer intends to cancel or not to renew the policy to make the law applicable only if the insurance producer who procured the policy was an independent insurance producer.
- Requires the state department of health, in consultation with the department of insurance, the office of the secretary of family and social services, and the Indiana board of pharmacy, to submit to the legislative council a report concerning:
  - (1) best practice guidelines in providing specialty drugs in a manner that ensures the patient’s safety; and
  - (2) information concerning any adverse events affecting the safety of patients resulting from the specialty drug protocols of a health carrier or hospital.
- Requires the legislative services agency to conduct a study of market concentration in Indiana in the health insurance industry, the hospital industry, and five other industries and to present the findings of the study to the combined interim study committees on financial institutions and insurance and public health, behavioral health, and human services, the legislative council, and the governor before December 31, 2022.

## **HEA 1432, PL 117: POLITICAL SUBDIVISION RISK MANAGEMENT**

Author: Lehman

Sponsor: Zay

- Requires the Indiana Public Employers’ Plan, Inc. (IPEP), which was established as a domestic nonprofit corporation, to apply for a certificate of authority to transact business as a domestic tax exempt reciprocal insurance company.
- Provides that, when IPEP receives the certificate of authority and begins to transact business as a domestic tax exempt reciprocal insurance company, all powers, duties, agreements, and liabilities that IPEP had as a domestic nonprofit corporation are transferred to the domestic tax exempt reciprocal insurance company as the successor entity.
- Repeals and strikes provisions under which mutual insurance associations and reciprocal associations formed and operating for the writing of worker’s compensation insurance are exempt from certain laws.

## **HEA 1436, PL 199: STATE AND LOCAL ADMINISTRATION**

Author: Thompson

Sponsor: Messmer

- Provides that, in an adjudicative administrative proceeding concerning an agency action, the administrative law judge shall order the agency to pay the reasonable attorney's fees incurred, if the party challenging the agency action proves, by a preponderance of the evidence, that:
  - (1) the agency's action was frivolous or groundless; or
  - (2) the agency pursued the action in bad faith.
- Make a conforming change to the determination of adjusted gross income for purposes of the state income tax deduction for unemployment compensation.
- Exempts certain hospitals from the nonprofit hospital public forum requirement.
- Specifies that an advance health care directive must be signed in the presence (but not the "direct physical presence") of two witnesses.
- Provides that local floodplain administrators in counties having a population of more than 140,000 but less than 150,000 may issue a variance approving a structure located in a floodway without a permit issued by the director of the department if:
  - (1) the structure is not used as an abode or residence;
  - (2) the structure is constructed after January 1, 2018, but not later than July 1, 2020; and
  - (3) the lowest floor of the structure is not more than 0.15 of a foot below two feet above the 100 year flood elevation.
- Resolves conflicts.

## **HEA 1437, PL 88: ELECTRONIC MEETINGS AND SIGNATURES**

Author: Cook

Sponsor: Rogers

### **Aim Comments:**

HEA 1437 creates a framework for the use of virtual meetings both outside times of emergency and in future times of emergency. It also allows the use of electronic signatures. This was one of Aim's legislative initiatives going into this session and is an important step toward providing greater flexibility for local units of government to conduct meetings.

During times of declared disaster emergencies, the legislation allows public meetings to be fully virtual (no in-person attendance necessary). This puts into state statute what was allowed by the Governor's executive orders during the COVID-19 pandemic.

To utilize virtual meetings when there is not a declared disaster emergency, the governing body must adopt a local policy. The local policy can be more strict than the state law, but not less strict, and there are several state-set guardrails that must be met if the governing body wants to allow its members to participate virtually in meetings. Unlike times of emergency, some in-person attendance is required, so these will be "hybrid" virtual meetings.

Aim has compiled several documents to help you navigate the procedures for holding electronic meetings going forward, including sample resolutions, guidance, practical tips, and a tracking chart. You can access all this information [here](#).

- Allows a member of a governing body of a political subdivision to participate in a meeting electronically subject to the following:
  - (1) Requires the governing body to adopt a written policy establishing procedures for electronic participation.
  - (2) Requires the technology to permit simultaneous communication between members and the public to attend and observe the proceedings.
  - (3) Requires at least 50% of the members to be physically present at the meeting site.

- (4) Allows a member participating electronically to be counted for quorum purposes.
- (5) Provides that a member participating electronically may participate in a final action taken by the governing body only if the member can be seen and heard.
- Exempts governing bodies of state agencies that have a majority of members with disabilities from certain attendance requirements.
- Provides that if a statute requires a manual signature for attesting or authenticating an obligation issued by certain state and local public entities, an electronic signature has the same force and effect as a manual signature.
- Adds provisions applicable to state and local public agencies when a state or local disaster emergency is declared.
- Makes stylistic changes.

## **HEA 1449, PL 89: BROADBAND DEVELOPMENT**

Author: Soliday

Sponsor: Koch

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, SEA 352, SEA 359, and SEA 377.

As you can see from the bill summary, HEA 1449 contains many complex provisions. Some of the major highlights include: 1) changing the priorities of the existing Next Level Connections Broadband Grants to favor schools, rural health clinics, and students in addition to the current priority of rural areas; 2) updating standards to new FCC guidelines; 3) creating a new program for subsidy payments for broadband service on behalf of individual consumers with priority to schools, rural health clinics, and students; and 4) creating the Indiana Broadband Connectivity Program under which individuals who do not have access to broadband can post their address on a state portal so providers can bid to extend service to unserved addresses and use state grant funding to do so.

- Amends the statute governing the awarding of grants from the rural broadband fund as follows:
  - (1) Provides that an “eligible broadband project” for purposes of the statute includes a project for the deployment of terrestrial broadband infrastructure:
    - (A) to buildings used by public school corporations primarily for educating students;
    - (B) to rural health clinics;
    - (C) to ensure that eligible students (defined as Indiana residents who are less than 23 years of age and who are enrolled in a K-12 school in Indiana) have access points providing a connection to eligible broadband service; and
    - (D) in rural areas in Indiana. (Current law provides that an “eligible broadband project” means only a project for the deployment of broadband infrastructure for the provision of eligible broadband service in rural areas in Indiana.)
  - (2) Specifies that terrestrial broadband infrastructure includes infrastructure used for a fixed wireless Internet connection but does not include infrastructure used for a satellite Internet connection.
  - (3) Provides that “eligible broadband service” means a connection to the Internet that provides an actual speed of at least:
    - (A) 1,000 megabits per second downstream for a project involving the deployment of broadband infrastructure to public school corporation buildings or rural health clinics;
    - or
    - (B) 50 megabits per second downstream and at least five megabits per second upstream for a project to provide to eligible students access points for connections to eligible

- broadband service, or for a project to provide eligible broadband service to rural areas.
- (4) Specifies the following priorities for the awarding of grants from the rural broadband fund:
    - (A) First, for extending eligible broadband service to public school corporation buildings with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
    - (B) Second, for extending eligible broadband service to rural health clinics with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
    - (C) Third, for extending eligible broadband service so as to ensure that every eligible student has at the student's residence an access point providing a connection to eligible broadband service.
    - (D) Fourth, extending eligible broadband service to rural areas in which the only available connections to the Internet are at actual speeds of less than 25 megabits per second downstream.
  - (5) Provides that a state agency may fund an eligible broadband project that is designated as a lower priority under the funding priorities set forth in the statute if no competitive applications for eligible broadband projects designated as a higher priority are submitted in a particular round of grant funding.
  - (6) Specifies that a grant may not be awarded from the rural broadband fund:
    - (A) for any project to extend the deployment of eligible broadband service to one or more service addresses for which funding from the federal government has been used or will be disbursed to extend broadband service at actual speeds of at least 25 megabits per second downstream to those same addresses; or
    - (B) if the awarding of the grant would jeopardize funding that has been awarded by the federal government under certain programs for purposes of expanding broadband service in Indiana.
  - (7) Provides that the system of priorities used by the office of community and rural affairs (office) for awarding grants from the rural broadband fund must give preference to projects that require a lower contribution from the fund per passing, as determined by a specified calculation.
  - (8) Provides that the procedures established by the office for the awarding of grants from the rural broadband fund must require the office to:
    - (A) include, in publishing grant applications to the office's Internet web site, specific addresses for which state funds would be used to provide eligible broadband service; and
    - (B) consider, in making a determination as to whether to award a grant to an applicant, all comments or objections received during the statutory comment period, including any new grant application that:
      - i. is submitted within the statutory comment period by another eligible broadband service provider; and
      - ii. indicates that such other provider would be willing to provide eligible broadband service to the same addresses at a lower cost to the state.
  - (9) Requires the office to establish a program to expand broadband Internet connectivity by:
    - (A) entering into agreements with broadband service providers under which such providers agree to accept subsidy payments distributed by the office as a form of payment for eligible broadband service; and
    - (B) distributing subsidy payments to participating providers to be used as a form of payment for eligible broadband service provided before July 1, 2025, to certain persons and entities, prioritized as follows:
      - i. School buildings.
      - ii. Rural health clinics.
      - iii. Eligible students.
  - (10) Provides that money in the rural broadband fund may be used to provide financial

assistance under the new program.

(A) Requires the office to establish and publish on the office's Internet web site:

- i. Specific, measurable goals; and
- ii. Metrics to be used in assessing the progress made toward accomplishing those goals; for the disbursement of state broadband grant funds.

(11) Requires the office to report annually to the interim study committee on energy, utilities, and telecommunications (rather than to the general assembly, under current law) concerning the awarding of state broadband grants.

(12) Requires the state board of accounts to conduct an annual audit (rather than an audit every three years, under current law) of the awarding of state broadband grants.

- Establishes the Indiana broadband connectivity program (connectivity program), under which the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
- Provides that the public broadband portal must solicit information as to whether one or more eligible students reside at an address that is reported by an individual through the portal.
- Provides that the office may contract or consult with one or more third parties in the creation or administration of the portal.
- Provides that a broadband Internet provider may:
  - (1) register with the connectivity program;
  - (2) receive, at least every three months, notice of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
  - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
  - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
- Provides that if the office does not receive notice from any providers that minimum broadband Internet is available at an address reported through the public broadband portal, the office shall transmit to each registered provider a bid notification for provision of broadband Internet service at the address.
- Specifies requirements for a provider's submission of a bid under the program.
- Provides that in evaluating the bids received, the office shall select the provider whose bid presents the lowest cost to the state for extension of the provider's broadband Internet infrastructure to the address.
- Provides that the amount of a grant awarded to a registered provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000.
  - (2) A per-passing amount that exceeds the state's cost per passing for all grants awarded from the rural broadband fund for rural broadband grants as of the last day of the immediately preceding state fiscal year, as calculated by the office.
- Requires the office to enter into an agreement with a provider that is awarded a grant under the program.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the connectivity program.

## **HEA 1466, PL 42: PERFORMANCE BONDING OF DEVELOPERS**

Author: Pressel

Sponsor: Doriot

### **Aim Comments:**

HEA 1466 requires (rather than allows) a local unit to grant a secondary plat approval if the applicant provides either a performance bond for the completion of certain items or written evidence of a contract with a utility for the installation or extension of utilities.

Under current law, the unit has discretion to decide whether to approve the secondary plat with proof of the performance bond or utility contract for all required infrastructure, sidewalks, and landscaping, but this will now be mandatory with the required proof of bond or contract. By requiring a municipality to grant the secondary plat if a developer provides a bond or proof of financial responsibility, it limits the options the municipality may utilize in ensuring projects are completed and may change current procedures in certain communities.

- Requires (rather than allows) a local unit to grant a secondary approval to a plat for a subdivision in which improvements and installations have not been completed if the applicant provides:
  - (1) a performance bond or other proof of financial responsibility; or
  - (2) if installation or extension of utility service is involved, proof of contracting with a utility or a political subdivision for the installation or extension.
- Provides that the only condition precedent that a local unit may require to recording a secondary plat is that the land developer obtain a performance bond or other surety for:
  - (1) unfinished streets, sanitary piping, storm water piping systems, water mains, sidewalks and ornamental landscaping located in common areas; and
  - (2) erosion control.
- Provides a definition of “common area”.

### **HEA 1485, PL 209: VOTING MATTERS**

Author: Wesco

Sponsor: Greg Walker

- Defines “breach of peace” and “law enforcement officer” for purposes of election law.
- Includes an identification document issued by a Native American Indian tribe or band for purposes of proof of identification.
- Specifies to whom a watcher must report any violation of election laws.
- Requires the prior consent of an inspector for a watcher to object to any other precinct election officer concerning an alleged violation of election laws and allows for the removal of the watcher and revocation of credentials for a violation.
- Amends the definition of “electioneering” and adds language prohibiting making verbal statements, displaying certain written statements, or the display of support for the approval or defeat of a public question and electioneering before election day in specified locations.
- Makes it criminal trespass for a person to enter or refuse to leave a polling location after having been prohibited entry or asked to leave by an election officer or a law enforcement officer acting on behalf of an election officer.

### **HEA 1541, PL 215: LANDLORD-TENANT RELATIONS**

Author: Manning

Sponsor: Buck

### **Aim Comments**

HEA 1541 is a “clean up” bill, necessitated by the General Assembly’s override of the Governor’s veto of SEA 148 (2020).

During the 2020 session, controversial language was added to SEA 148 to preempt the ability of local units to regulate seven specific aspects of the landlord-tenant relationship, along with a catchall phrase to preempt regulation of “any aspects” of the landlord-tenant relationship. Although this language was aimed at one particular city’s tenants’ rights ordinance, the language in the bill applied

statewide.

Aim argued that this language was overly broad and may void many different types of ordinances across the state that weren't originally contemplated with the preemption language. In Governor Holcomb's veto letter, he cited this overbroad language as one of the reasons he vetoed the bill. Although lawmakers overrode the veto, thus allowing SEA 148 to become law, they committed to removing the overbroad language in a later bill, which became HEA 1541.

HEA 1541 removes the catchall language prohibiting local units from regulating "any aspects" of the landlord-tenant relationship, but the law still prohibits local units from regulating seven specific aspects of the landlord-tenant relationship: 1) the screening process used by landlords; 2) security deposits; 3) lease applications; 4) leasing terms and conditions; 5) disclosures concerning the property, lease, or the rights and responsibilities of the parties; 6) the rights of the parties to a lease; and 7) any fees charged by a landlord.

- Eliminates the general restriction on the authority of a county, city, town, or township concerning regulation of landlord-tenant relationship matters not specifically described by state statute.
- Prohibits the waiver of laws regarding retaliatory acts by a landlord.

### **HEA 1558, PL 217: INDIANA CRIME GUNS TASK FORCE**

Author: Steuerwald

Sponsor: Mike Young

- Establishes the Indiana crime guns task force (task force) to address violent crime in Boone, Hamilton, Hancock, Hendricks, Marion, Morgan, Johnson, and Shelby counties by delivering, in cooperation with state and federal officials, a uniform strategy to trace firearms used to commit crimes.
- Establishes an executive board to direct and oversee the task force.
- Requires the Indiana criminal justice institute to establish and administer the task force fund.
- Makes conforming amendments.

### **HEA 1576, PL 44: TRANSPORTATION ASSET MANAGEMENT PLANS**

Author: Teshka

Sponsor: Doriot

- Requires the department of transportation (department) post asset management plans approved by the department to an Internet web site maintained by the department or by an entity contracted by the department to approve asset management plans not later than July 1, 2022.

### **SEA 1, PL 1: CIVIL IMMUNITY RELATED TO COVID-19**

Author: Messmer

Sponsor: Torr

#### **Aim Comments:**

Providing civil liability protections for businesses, nonprofits, and government entities against COVID-19 related lawsuits was a legislative priority for both House and Senate Republican leadership, resulting in companion bills SEA 1 and HEA 1002.

SEA 1 is the bill that includes protections for local governments. It provides civil tort immunity from lawsuits arising from COVID-19, including claims alleging someone contracted COVID-19 on the premises of facilities or offices owned by local governments or in the normal course of doing business with local governments.

This bill ensures that local governments will not incur needless liability for providing essential services

during the pandemic and will ward off the potential of frivolous COVID-19 related lawsuits against cities and towns.

- Provides civil tort immunity for damages arising from COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Defines “COVID-19 protective product” and provides civil tort immunity for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Prohibits class action suits.

## **SEA 5, PL 219: LOCAL HEALTH DEPARTMENTS; PUBLIC HEALTH EMERGENCIES**

Author: Garten

Sponsor: Lehman

### **Aim Comments:**

SEA 5 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 263 and HEA 1123). SEA 5 specifically addresses local health departments and oversight by local elected officials.

With SEA 5, if the Governor declares an emergency under IC 10-14-3, any local order issued by a local board of health that is more stringent than the Governor’s executive orders must be approved by the legislative body. Any local order that addresses an aspect of the emergency that is not addressed in the Governor’s executive orders must likewise be approved by the legislative body.

In counties with a county health department, this will be the county commissioners. For the three city health departments, the order must be approved by the city council and the mayor (or passed over the mayor’s veto by a 2/3rds vote).

SEA 5 also establishes a new appeals process before the local legislative body for individuals to appeal an enforcement action taken against them by a local board of health. With this law, an individual that is subject to a local enforcement action can appeal directly to the legislative body. In counties with a county health department, this will be the county commissioners. For the three city health departments, this will be the city council.

The legislative body can choose whether to hear or deny an appeal. If the legislative body agrees to hear an appeal, SEA 5 sets out a framework of procedures that must be followed. This appeals process is only in place when there is a disaster emergency declared by the Governor under IC 10-14-3 or a declared local public health emergency.

There are also other provisions in this bill dealing with the appointment and removal of county health officers.

Governor Holcomb vetoed SEA 5, but the General Assembly reconvened on May 10 and voted 59-30 in the House and 36-10 in the Senate to override his veto. Thus, SEA 5 became effective on May 10, 2021.

- Provides that if a local order addresses an aspect of a declared emergency addressed by an executive order, the local order may be less stringent than the executive order to the extent permitted by the executive order.

- Provides that if a local order addresses an aspect of a declared emergency that is not addressed by an executive order or if a local order addresses an aspect of a declared emergency more stringently than an executive order, the local order may not take effect, or remain in effect, unless the local order is approved by the county legislative body (in the case of a county health department) or by an ordinance adopted by the city legislative body and approved by the mayor (in the case of a city health department).
- Provides that the appointment of a county health officer is subject to the approval of the county legislative body.
- Adds other good cause to the reasons for which a local health officer may be removed in counties other than Marion County.
- Specifies that a local health officer serves until a successor is appointed and qualified.
- Establishes an appeals process before legislative bodies of enforcement actions taken by local boards of health and local health officers in response to declared state and local public health emergencies.

### **SEA 8, PL 135: TRAFFIC ENFORCEMENT IN RESIDENTIAL COMPLEXES**

Author: Buchanan

Sponsor: Negele

- Reenacts and extends the ability of a unit to enforce moving traffic ordinances on the property of a residential complex under certain circumstances. (This provision expired December 31, 2020.)
- Extends the requirement that the office of judicial administration submit reports to the legislative council relating to the enforcement of moving traffic ordinances on the property of residential complexes.

### **SEA 28, PL 66: TAX SALES**

Author: Niemeyer

Sponsor: Slager

- Prohibits a person who is delinquent in the payment of personal property taxes or is subject to an existing personal property tax judgment from bidding on or purchasing a tract at a tax sale.
- Prohibits a business entity from bidding on or purchasing a tract at a tax sale when a person who is prohibited from bidding on or purchasing a tract at a tax sale:
  - (1) formed the business entity;
  - (2) joined with another person or party to form the business entity;
  - (3) joined the business entity as a proprietor, incorporator, partner, shareholder, director, employee, or member;
  - (4) becomes an agent, employee, or board member of the business entity; or
  - (5) is not an attorney at law and represents the business entity in a legal matter.
- Requires a person to acknowledge that providing false information relating to a prohibited bid or purchase is perjury.
- Creates a new section of code with revised requirements for the forfeiture of a tax sale purchase by an ineligible bidder.
- Requires a county treasurer, except for in a county containing a consolidated city, to pay all taxes and assessments that accrue on the tract of real estate through the time the record owner is divested of title from the tax sale surplus fund for the tract.
- Permits a county legislative body to adopt an ordinance prohibiting the assignment of a certificate of sale prior to the issuance of a tax title deed.
- Adds requirements that must be met within 150 days of the date a court grants a petition to issue a tax deed before a county auditor can issue or record a tax deed.

### **SEA 35, PL 22: STATUTES APPLICABLE TO LAKE AND ST. JOSEPH COUNTIES**

Author: Houchin

Sponsor: Slager

- Adds references to Lake County and St. Joseph County that were removed in P.L.278-2019.
- Specifies provisions for St. Joseph County with regard to division of the county into districts.
- Makes conforming amendments.

### **SEA 68, PL 107: CONSERVANCY DISTRICT BOARD MEETINGS**

Author: Donato

Sponsor: Jordan

- Amends the open door law to allow members of a conservancy district board of directors to attend meetings electronically.

### **SEA 77, PL 7: PEER SUPPORT SERVICES AND CISM SERVICES**

Author: Crider

Sponsor: Frye

- Provides, with certain exceptions, that written or oral communications concerning the provision of peer support services and critical incident stress management services (CISM services) to a first responder are confidential and may not be disclosed without the first responder's consent. (Current law provides that communications concerning CISM services to an emergency responder are confidential.)
- Provides that a first responder's communication is not confidential and may be disclosed:
  - (1) to prevent the first responder from committing a crime or fraud that the provider of CISM services or peer support services reasonably believes is likely to result in death, substantial bodily harm, or substantial economic injury to another;
  - (2) if it conveys information regarding spousal abuse;
  - (3) if the provider of CISM services or the peer support services was a witness or a party to the incident resulting in the provision of services to the first responder; or
  - (4) if the first responder consents to disclosure.
- Provides that a person providing peer support services is not liable for damages for an act, error, or omission committed by the person in performing peer support services unless the act, error, or omission constitutes wanton, willful, or intentional misconduct.

### **SEA 80, PL 137: CODE PUBLICATION BILL**

Author: Mike Young

Sponsor: Torr

- Makes Indiana Code publication amendments.
- Resolves technical conflicts between various enrolled acts passed during the 2021 legislative session.
- Corrects technical errors in various enrolled acts passed during the 2021 legislative session. (The introduced version of this bill was prepared by the code revision commission.)

### **SEA 81, PL 8: TRAINING FOR INVESTIGATORS OF SEXUAL ASSAULT CASES**

Author: Crider

Sponsor: Olthoff

- Requires certain training for sexual assault investigators.
- Mandates that the law enforcement training board set specialized standards for training and investigating sexual assault cases involving adult victims.

### **SEA 94, PL 92: PENSION MATTERS**

Author: Boots

Sponsor: Thompson

- Provides that the Indiana public retirement system (INPRS) shall pay the governors' retirement and surviving spouse pensions from the public employees' retirement fund (PERF). (Current law makes the auditor of state responsible for the payments.)
- Modifies provisions related to the pension entitlement for the surviving spouse of a governor.

- Changes the definition of “retired participant” in the retirement medical benefits account statute.
- Eliminates the requirement that INPRS shall make an actuarial valuation of the assets and liabilities of the retiree health benefit trust fund at least every two years and instead requires INPRS each year to report the assets and liabilities of the retiree health benefit trust fund and make recommendations for employer contribution amounts.
- Provides that if an individual becomes a participant in the public employees’ defined contribution plan with respect to the individual’s service as a volunteer firefighter, the individual does not earn creditable service in the fund for service with a volunteer fire department.
- Provides that interest shall be credited to the account of each participant in the prosecuting attorneys’ retirement fund at least annually.
- Specifies the repayment conditions that apply if a participant of the judges’ retirement system or a fund member of the 1977 police officers’ and firefighters’ pension and disability fund withdraws from the respective fund and again becomes a participant or member of the respective fund at a later date.
- For purposes of the PERF and state teachers’ retirement fund:
  - (1) adds survivors and beneficiaries to provisions related to recouping, stopping, or terminating benefits;
  - (2) provides that if an overpayment occurs, the board may not require a member, survivor, or beneficiary to pay more than 25% of their monthly benefit toward the overpayment; and
  - (3) provides that if an overpayment began before July 1, 2015 and was caused by no fault of the member, survivor, or beneficiary, the board may only require a member, survivor, or beneficiary to pay the amount of the overpayment of benefits received during the six years before the date INPRS discovers the overpayment and attempts to provide notice of the overpayment.
- Provides that the budget agency may transfer appropriations from federal or dedicated funds to the retiree health benefit trust fund.
- (The introduced version of this bill was prepared by the interim study committee on pension management oversight.)

## **SEA 218, PL 75: TOWNSHIP HOMELESS ASSISTANCE**

Author: Sandlin

Sponsor: Pressel

- Establishes the low barrier homeless shelter task force.
- Beginning July 1, 2022:
  - (1) allows a township trustee to place a homeless individual temporarily in a county home or provide temporary township assistance; and
  - (2) requires the township trustees within a county to collaborate and prepare a list of public and private resources available to the homeless population that is distributed and published on the county’s Internet web site, if the county has a web site, not later than March 1 of each year.
- Provides that a person commits the offense of criminal trespass if:
  - (1) the person, who does not have a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is designated by a municipality or county enforcement authority to be an unsafe building or premises; or
  - (2) the person knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be an unsafe building or premises; unless the person has the written permission of the owner, the owner’s agent, an enforcement authority, or a court

- to come onto the property for purposes of performing maintenance, repair, or demolition.
- Provides that an individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor.
- Defines “harasses”.
- Repeals the chapter concerning panhandling.

### **SEA 232, PL 143: EXPOSURE RISK DISEASES**

Author: Jon Ford

Sponsor: Judy

#### **Aim Comments:**

SEA 232 adds SARS variants, including the one that causes COVID-19, to the list of exposure risk diseases in state law which triggers a presumption that a public safety officer who dies or becomes disabled from an exposure risk disease incurred the disease in the line of duty. This provision is retroactive to January 1, 2020, so the families of any public safety officers who died of COVID-19 are presumed eligible to receive line of duty death benefits.

If an employee is diagnosed after June 30, 2021, with a health condition caused by any variant of SARS that leads to a disability or death, the employee is required to provide legal verification that he/she was not exposed to someone else with SARS outside the scope of employment in order to keep the presumption that the death or disability was incurred in the line of duty. The presumption also does not apply when a vaccine or other preventative measure against the exposure risk disease is available but not received.

- Adds any variant of severe acute respiratory syndrome (SARS), including coronavirus disease (COVID-19), to the list of diseases considered an exposure risk disease for purposes of emergency and public safety employee death and disability presumed in the line of duty.
- Provides, for any employee who is diagnosed after June 30, 2021, with a health condition caused by any variant of SARS, including COVID-19, that if the health condition results in disability or death and the employee wishes to have a presumption of disability or death incurred in the line of duty apply to the employee, the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee’s current employment, been exposed to another individual known to have any variant of SARS, including COVID-19.
- Makes technical corrections.

### **SEA 234, PL 97: WITHHOLDING TAX REMITTANCE**

Author: Rogers

Sponsor: Miller

- Requires the department of state revenue (department) to provide written notice, by electronic means, to each employer that is registered in the department’s online INTIME program and whose employer’s Form WH-1 monthly withholding tax report or withholding tax remittance is past due.
- Requires each payroll service provider to annually register with the department beginning January 1, 2022.
- Specifies the contents of the annual registration form.
- Defines “payroll service provider” and “responsible person” for purposes of these provisions.
- Provides that the department may charge an annual payroll service provider registration fee for purposes of the registration program.
- Provides that a provider shall be permitted to retain any income generated on business client (client) funds while held in a provider’s legal possession pending remittance to authorized payees if the client agreement expressly permits it and the provider complies with certain rules.
- Provides that a payroll service provider contract must include a provision that specifies that if

the payroll service provider fails to deposit or remit a business client's employer withholding taxes when due, and the failure is caused by an error or omission of the payroll service provider and not by the business client, the payroll service provider shall be required to reimburse the business client for the business client's payment of any penalties or interest assessed by the department as a result of the failure.

- Provides that, if a provider knowingly or intentionally fails to remit taxes withheld, the provider is liable and responsible persons shall be personally liable for such taxes that were withheld and not remitted, along with penalties and interest.
- Provides that a responsible person of the provider who knowingly or intentionally fails to remit taxes that were withheld commits a Class A misdemeanor, and increases the penalty depending on the amount of taxes that were not remitted.
- Provides that the liability shall not be construed to relieve the liability of the employer or any person otherwise with a duty to withhold.
- Provides that the employer's address shall be the address of record with the department for withholding tax purposes and that a payroll service provider may not change the address of record with the department.

### **SEA 263, PL 99 RELIGIOUS ACTIVITIES AS ESSENTIAL SERVICES**

Author: Koch

Sponsor: Steuerwald

#### **Aim Comments:**

SEA 263 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 5 and HEA 1123). SEA 263 specifically addresses restrictions on religious organizations and the right to worship during disaster emergencies.

Under SEA 263, the state and political subdivisions are prohibited from restricting the right of people to worship in person during a disaster emergency.

Religious organizations can be required to comply with neutral and generally applicable health, safety, or occupancy requirements, but the state and political subdivisions are prohibited from imposing restrictions on religious organizations that are more restrictive than restrictions on other businesses and organizations providing essential services.

- Prohibits the state and a political subdivision from imposing restrictions on a religious organization that are more restrictive than the restrictions imposed upon other businesses and organizations that provide essential services to the public.
- Permits the state or a political subdivision to require a religious organization to comply with a neutral and generally applicable health, safety, or occupancy requirement to the same extent as other organizations, if the requirement is otherwise allowable under Indiana's religious freedom law.
- Provides that the state, a political subdivision, or an officer or employee of the state or a political subdivision may not restrict the right of the people to worship or to worship in person during a disaster emergency.

### **SEA 304, PL 149: INDEMNITY AGREEMENTS IN PUBLIC WORKS CONTRACTS**

Author: Messmer

Sponsor: Torr

- Provides that a statute that invalidates indemnity agreements in construction contracts relating to providing certain professional services is applicable to such contracts relating to public works projects.
- Provides that a specified chapter does not apply to:
  - (1) projects covered by INDOT's contractor qualification statute; or

- (2) a project that is the construction, improvement, alteration, repair, or maintenance of a highway, street, or road.
- Provides that a BOT agreement may provide for the transfer of a public facility to a governmental body by means of a lease or an installment contract.
- Defines certain terms.

### **SEA 310, PL 150: ALCOHOLIC BEVERAGES**

Author: Charbonneau

Sponsor: Smaltz

- Allows a food hall that:
  - (1) is located in a certified technology park; and
  - (2) is not located in a historic district or historic building; to be eligible for a food hall master permit.
- Provides that a project that:
  - (1) borders a lake that is at least 750 acres; and
  - (2) is within a municipality; is eligible for a municipal riverfront development project retailer's permit.
- Allows a person who holds:
  - (1) a restaurant permit in an economic development area; and
  - (2) an interest in a brewery, farm winery, or artisan distillery (production facility) located on or adjacent to the restaurant; to sell alcoholic beverages manufactured at the production facility for carryout in the restaurant's general merchandising area and from a self-serving display.
- Provides that a minor may:
  - (1) be in the restaurant's general merchandising area; and
  - (2) participate in a nondrinking tour of the production facility, if the minor is accompanied by an adult family member.

### **SEA 329, PL 27: FLOOD CONTROL DISTRICT BOARD OF COMMISSIONERS**

Author: Grooms

Sponsor: Engleman

- Provides that the board of commissioners of a flood control district includes:
  - (1) the executive of each town and the executive of each township included in the district (instead of the town executive or the township executive); and
  - (2) one individual appointed by the executive of each town in the district that does not have a works board.
- Provides that each commissioner of the flood control board, not holding other lucrative elective or appointive office, is entitled to a salary fixed by the board.
- Provides that the executive of the city petitioning for the establishment of the flood control district shall be the determining vote in the event of a tie.

### **SEA 332, PL 152: PUBLICATION OF NOTICE BY POLITICAL SUBDIVISIONS**

Author: Buck

Sponsor: Miller

#### **Aim Comments:**

SEA 332 gives political subdivisions an option to publish certain public notices on their website instead of in the newspaper.

When a political subdivision is required by statute to publish a notice two or more times, under SEA 332, the political subdivision may now publish the second and subsequent notices on their official website after the first notice is published in the required newspaper(s). There are a handful of notices that must be printed more than once including the sale of bonds, receiving of bids, and the

establishment of a cumulative or sinking fund.

An official website is defined as the Internet location designated by a political subdivision as its primary source of information about the political subdivision on the Internet. Proof of publication of notices is still required and must be furnished upon request for online postings.

Aim supported this legislation as a step forward in modernizing how public notices are published. We will continue to work with stakeholders on this issue in future sessions.

- Allows a political subdivision, when required by statute to publish a notice two or more times, to make the first publication of notice in a newspaper and any subsequent publications of the notice on the official web site of the political subdivision.
- Requires the political subdivision or contractor that maintains the political subdivision's official web site to provide proof of publication of the notice on the official web site.
- Provides that if, with regard to a sheriff's sale of real property to execute a judgment, the sheriff is not able to procure publication of the notice in a newspaper of general circulation within the county, the sheriff may publish the notice on the Internet web site of each county where the real estate is located (instead of dispensing with the publication of notice entirely).

### **SEA 336, PL 153: BUSINESS PERSONAL PROPERTY TAX EXEMPTION**

Author: Freeman

Sponsor: Speedy

#### **Aim Comments:**

SEA 336 increases the business personal property tax exemption to \$80,000 (from \$40,000), allowing more businesses to be exempt from the tax, increasing tax rates on other properties, and increasing circuit breaker losses to local units.

The increase in the exemption causes about a \$7.9 million statewide hit to local governments. You can see the county-by-county estimated revenue losses here.

Although this change is not great news for local governments, the originally introduced version contained far more significant language that eliminated the depreciation floor on new business personal property. The full fiscal impact of this is hard to estimate, but the worst-case scenario could be up to a total net assessed value loss of about \$15.5 billion, causing a revenue loss of about \$175 million to local governments when fully implemented. This estimate assumes that all older business personal property would eventually be replaced with new property, so the total amount is likely to be less, but it still demonstrates the potential magnitude of loss to the tax base. This language was removed in the first half of session in committee, but several fiscal leaders have indicated an interest in going down this road in the future.

Looking at the big picture, there is significant opposition to the BPPT in whole, along with a continued "chipping away" at the tax without an identified state revenue replacement plan. We will continue discussions with lawmakers and other stakeholders about why this is so problematic.

- Increases, from \$40,000 to \$80,000, the acquisition cost threshold for the business personal property tax exemption.
- Makes a technical correction.

### **SEA 348, PL 154: WASTEWATER TASK FORCE**

Author: Koch

Sponsor: Soliday

## Aim Comments:

SEA 348 creates an 18-member task force to examine statewide wastewater issues including consolidation, acquisition, and lifecycle management. The task force is also charged with developing a long-term plan to address wastewater needs in Indiana.

Two topics added to the list of items to study include an evaluation of “combined billing” to allow a utility company to allocate a portion of the costs of providing wastewater services to the company’s water customers, and a consideration of the appropriateness of and circumstances for allowing municipally owned utilities to sell water or wastewater services outside of their corporate boundaries.

The membership of this task force will include twelve legislators and six others appointed by the Governor. The Governor’s appointments must include one member specifically representing municipalities served by a wastewater operator that is not under the jurisdiction of the IURC.

This bill was also amended to create a water infrastructure grant program administered by the Indiana Finance Authority, a compliment to the \$60M provided in the budget for new water infrastructure grants.

- Establishes the task force on wastewater infrastructure investment and service to underserved areas (task force).
- Provides that the task force consists of the following 18 members:
  - (1) Six members of the senate, with the president pro tempore appointing four members (one of whom serves as co-chair of the task force), and the minority leader appointing two members.
  - (2) Six members of the house of representatives, with the speaker appointing four members (one of whom serves as co-chair of the task force), and the minority leader appointing two members.
  - (3) Six gubernatorial appointees, including the following:
    - (A) One officer or employee of the state.
    - (B) One member representing operators of wastewater management systems.
    - (C) One engineer, or another professional, with expertise in wastewater management systems.
    - (D) One member representing ratepayers.
    - (E) One member representing municipalities served by a wastewater operator not under the jurisdiction of the utility regulatory commission.
    - (F) One member of the general public.
- Sets forth the duties of the task force.
- Requires the task force to develop a long term plan for addressing wastewater needs in Indiana.
- Requires the task force to issue a report setting forth its recommendations to:
  - (1) the executive director of the legislative services agency for distribution to members of the general assembly; and
  - (2) the governor; not later than December 1, 2021.
- Provides that the bill’s provisions concerning the task force expire January 1, 2022.
- Establishes the water infrastructure grant program (program) to be administered by the Indiana finance authority (authority).
- Establishes the water infrastructure grant fund (fund) as a source of money for grants, loans, and other financial assistance to, or for the benefit of, participants in the program.
- Sets forth purposes for which money in the fund may be used, including the planning, designing, acquisition, construction, renovation, improvement, or expansion of:
  - (1) water systems; and
  - (2) wastewater or storm water collection and treatment systems.
- Requires the authority to adopt guidelines to establish criteria for the making of grants, loans, and other financial assistance from the fund.

- Sets forth certain conditions that apply to the making of grants, the making of loans, and the providing of other financial assistance from the fund.
- Requires the authority to establish a project prioritization system for the purposes of awarding loans and grants from the fund.
- Sets forth certain variables that the project prioritization system must include.
- Provides that the authority may provide advisory services and other services to a participant in connection with a grant, a loan, or other financial assistance from the fund.
- Requires the public finance director to submit to the budget committee and the legislative council, in each odd-numbered year through 2023, a report concerning grants, loans, or other financial assistance made available to participants from the fund.

### **SEA 349, PL 120: FINANCING, TRANSFER, AND IMPROVEMENT OF UTILITY ASSETS**

Author: Koch

Sponsor: Soliday

- Requires that the priority ranking system used by the Indiana finance authority in making loans or other financial assistance from:
  - (1) the drinking water revolving loan fund; or
  - (2) the wastewater revolving loan fund; must prioritize loans securing longer term benefits over shorter term projects, all other factors being equal.
- Provides that not later than 60 days after the effective date of a change in the applicable federal or state income tax rate as a result of new legislation, a water or wastewater utility shall petition the utility regulatory commission (IURC) for a water or wastewater utility surcharge that adjusts the water or wastewater utility's rates and charges to provide recovery for the change in the federal or state income tax rate.
- Provides that a water or wastewater utility that serves fewer than 8,000 customers may, but is not required to, file a petition for such a surcharge.
- Provides that a surcharge shall be calculated to reflect the difference between:
  - (1) the amount of federal or state income taxes that each existing rate or charge of the water or wastewater utility was designed to recover based on the income tax rate in effect at the time the rate or charge was approved; and
  - (2) the amount of federal or state income taxes that would have been embedded in the given rate or charge had the new tax rate been in effect at the time of approval.
- Provides that a surcharge shall not include normalization of a water or wastewater utility's accumulated deferred income taxes.
- Provides that the IURC shall approve a proposed surcharge if the IURC finds that:
  - (1) the surcharge has been calculated correctly; and
  - (2) the water or wastewater utility's proposal is just and reasonable.
- Provides that an approved surcharge shall operate on a prospective basis.
- Amends the applicability language of the statute governing the transfer, acquisition, and improvement of utilities by municipalities to specify that the statute applies to a municipally owned electric, water, wastewater, or combined water and wastewater utility.

### **SEA 352, PL 121: BROADBAND DEVELOPMENT**

Author: Koch

Sponsor: Manning

#### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 359, and SEA 377.

SEA 352 requires the Office of Community and Rural Affairs (OCRA) to establish a new “challenge” process that is specific to the initial letters of intent stage, where prospective applicants write a letter of intent identifying all addresses and census blocks they intend to include in the grant application. Under SEA 352, the address data for the properties that will be served by the proposed project must be publicly posted, and other broadband providers can challenge a listed address or census block as an area that is already served with speeds of at least 25/3. This is designed to prevent overbuilding or allowing certain projects to be subsidized with grant dollars when other providers made the investment to serve the area without assistance.

- Requires the office of community and rural affairs (office) to establish a process to be used before each formal submission of applications for grants from the rural broadband fund (fund) in which the office will:
  - (1) invite any prospective grant applicant to submit a letter of intent identifying all addresses and census blocks that the applicant intends to include in a grant application; and
  - (2) make all addresses and census blocks submitted in letters of intent publicly available for a period of time, during which eligible broadband service providers will have the opportunity to challenge a listed address or census block.
- Provides that challenges under the new process are to be based on the asserted deployment of “minimum broadband Internet” (defined as a terrestrial connection to the Internet that provides an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) at a specific address.
- Specifies that the process established is to precede and remain distinct from the statutory procedures for actual grant applications.
- Provides that the department of transportation (INDOT) may require a private entity to agree, as a condition of INDOT leasing a right-of-way to the private entity, that facilities constructed or installed by the private entity in or under the right-of-way, which if removed would:
  - (1) cause irreparable soil disturbance; or
  - (2) have a detrimental effect on INDOT’s facilities or on the facilities of other utilities; will be considered abandoned without additional consideration, upon the private entity’s written notice to INDOT.
- Provides that upon being abandoned, a facility may no longer be used for any purpose by any public or private entity.

## **SEA 359, PL 156: BROADBAND PROJECTS**

Author: Baldwin

Sponsor: Manning

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority in the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 made this priority more acute and statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See: HB 1001, HB 1449, SB 352, SB 359, and SB 377.

SEA 359 creates a broadband corridor program through INDOT to help streamline broadband deployment along state roads and highways to better connect the state.

- Requires the Indiana department of transportation (INDOT) to create a broadband corridor program (dig once program) to manage the location, installation, and maintenance of communications infrastructure that is used for the provision of broadband services and is located within the rights-of-way of limited access highways.
- Requires INDOT to adopt policies, procedures, and standards under the dig once program for required installation of fiber conduit by a public or private entity that performs an excavation within a limited access highway right-of-way.

## SEA 377, PL 158: BROADBAND DEVELOPMENT

Author: Zay

Sponsor: Soliday

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 352, and SEA 359.

SEA 377 allows OCRA to create new broadband coverage maps that have address level specificity. This is in response to the FCC maps which typically consider an area of the state served by broadband if at least one home in the census block has broadband access, a standard that has been overestimating coverage for years.

Like HEA 1449, it also contains language establishing the Indiana Broadband Connectivity Program.

- Establishes the Indiana broadband connectivity program (program) for the purpose of expanding availability of broadband Internet connectivity throughout Indiana.
- Provides that as part of the program, the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
- Provides that a broadband Internet provider may:
  - (1) register with the program;
  - (2) receive, at least every three months, listings of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
  - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
  - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
- Provides that in evaluating any bids received under the program, the office shall select the provider whose bid presents the lowest cost to the state.
- Provides that a grant awarded to a provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000, regardless of the number of addresses served by the line extension.
  - (2) A per-passing amount that exceeds the state's cost per passing for all rural broadband grants awarded from the fund as of the last day of the immediately preceding state fiscal year.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the program.
- Provides that the office may maintain a geographic information system (GIS) or similar data base that contains spatial data regarding the availability of broadband Internet service in Indiana.
- Provides that the office may evaluate the broadband Internet coverage map created by the Federal Communications Commission under the Broadband Deployment Accuracy and Technological Availability Act (FCC map) and:
  - (1) if the office finds that the FCC map:
    - (A) provides address level broadband Internet coverage information; or
    - (B) provides a greater level of detail than the office's broadband Internet coverage map;

- use the FCC map to update the office's broadband Internet coverage map; or
- (2) if the office finds that the FCC map does not:
- (A) provide address level broadband Internet coverage information; or
  - (B) provide a greater level of detail than the office's broadband Internet coverage map; report that finding to the interim study committee on energy, utilities, and telecommunications during the 2022 legislative interim.

### **SEA 381, PL 122: INNKEEPER'S TAX**

Author: Buchanan

Sponsor: Tim Brown

- Changes the distribution of part of the tax revenue in the Tippecanoe County innkeeper's tax fund (fund) so that 10% of the revenue in the fund is distributed to the department of natural resources for the development of projects in the state park and 20% of the revenue in the fund is distributed as determined by the county fiscal body.
- Provides that the Daviess County innkeeper's tax rate may not exceed 9%.
- Provides that all or part of the revenue received from imposition of the innkeeper's tax in Boone County may, subject to authorization by the county fiscal body, be pledged towards payment of obligations issued or entered into by a political subdivision in the county to finance the construction, acquisition, enlargement, and equipping of a sports and recreation facility.
- Provides for collection procedures of a county innkeeper's tax by the department of state revenue if a county fiscal body adopts an ordinance making a change concerning the imposition of the innkeeper's tax.

### **SEA 383, PL 159: VARIOUS TAX MATTERS**

Author: Holdman

Sponsor: Tim Brown

- Requires a corporation with gross income of more than \$1,000,000 to file its corporate income tax return in an electronic manner specified by the department of state revenue (department).
- Provides a sales tax exemption for a utility scale battery energy storage system.
- Provides a sales tax exemption for public safety equipment and materials.
- Provides certain procedures for reporting federal partnership audit adjustments for purposes of the state adjusted gross income tax and financial institutions tax in order to conform with changes in federal law.
- Provides that the department may prescribe procedures:
  - (1) by which a pass through entity remits tax;
  - (2) for persons or entities that are otherwise subject to withholding but that may have circumstances such that standard tax computation may result in excess withholding;
  - (3) for individuals and trusts that are residents for part of the taxable year and nonresidents for part of the taxable year; and
  - (4) by which an entity may request alternative withholding arrangements.
- Requires the daily pari-mutuel breakage on wagers to be paid to the department, instead of the auditor of state, for deposit in the appropriate breed development fund.
- Requires a utility provider to maintain records sufficient to document each one to one meter change.
- Allows a person to request that the department reissue an exemption certificate with a new meter number in the event of a one to one meter change.
- Removes duplicate provisions regarding electronic filing requirements for sales tax and withholding tax remittance.
- Removes certain unnecessary information currently required for employer withholding tax reporting forms.
- Specifies that the penalty provisions in current law for failure to make a payment by electronic funds transfer also apply to a failure to make a payment by any other electronic means.
- Clarifies that an individual's estimated income tax filing and payment requirements include

local income taxes.

- Clarifies the penalty calculation for failure to make estimated tax payments, including estimated utility receipts tax and financial institutions tax payments.
- Provides that a taxpayer may elect to claim a tax credit against the taxpayer's Indiana adjusted gross income tax liability for the amount of tax that is imposed in a foreign country but not due from the taxpayer under the laws of that foreign country until a tax year after the tax year in which the income subject to the foreign country's tax is included in the taxpayer's Indiana adjusted gross income (provides for retroactive application to tax years beginning after December 31, 2016).
- Sets a floor on the periodic change in the gasoline tax and the special fuel tax rates each year of not less than the rates in the preceding year.
- Provides that the fee to register a trailer that is registered under the International Registration Plan (IRP) shall be prorated based on the Indiana mileage percentage of the registrant's trucks and tractors registered under the IRP.
- Allows the department to release the name and business address of a person that is issued a retail merchant's certificate for the purpose of reporting the status of the person's certificate.
- Provides that the provision in current law requiring an out-of-state merchant to collect sales tax on retail transactions made in Indiana if certain threshold conditions are met extends to the following:
  - (1) The waste tire management fee.
  - (2) The fireworks public safety fee.
  - (3) The prepaid wireless service charge.
- Provides that a township trustee casts the deciding vote to break a tie vote in the township board, except for a tie vote on increasing the township trustee's compensation.
- Makes a clarifying change to redevelopment tax credit provisions.
- Delays the expiration of provisions providing that a local income tax council for a county with a single voting bloc must vote as a whole in order to exercise its authority to increase (but not decrease) a local income tax rate in the county.

### **SEA 384, PL 79: PROFESSIONAL SPORTS AND CONVENTION DEVELOPMENT AREAS**

Author: Holdman

Sponsor: Heine

- Increases the maximum amount of covered taxes that may be captured in the Allen County PSCDA from \$3,000,000 to \$5,000,000.
- Provides for distribution of the covered taxes in the Allen County PSCDA as follows:
  - (1) The first \$2,600,000 to the Allen County War Memorial Coliseum.
  - (2) The next \$400,000 to the Allen County-Fort Wayne capital improvement board (board) for the Grand Wayne Center.
  - (3) The remaining amount to the board to be split evenly between the Allen County War Memorial Coliseum and the Grand Wayne Center.
- Specifies the termination date of the Allen County PSCDA.
- Provides that the Evansville PSCDA (which is currently expired) is renewed beginning after June 30, 2021, for an additional 20 years, including the addition of the downtown convention center hotel to the Evansville PSCDA.
- Provides that the South Bend PSCDA (which is currently expired) is renewed beginning after June 30, 2021, for an additional 20 years, including the addition of three downtown hotels, the Howard Park event center, and facilities located at the Indiana University South Bend campus to the South Bend PSCDA.
- Provides that the maximum amount of covered taxes that may be captured in the renewed South Bend PSCDA is \$2,000,000 per year.
- Revises the expiration date for the PSCDA chapter.

## **SEA 385, PL 11: ADDITIONAL PROFESSIONAL SPORTS DEVELOPMENT AREA**

Author: Sandlin

Sponsor: Speedy

- Provides that an additional professional sports development area in Marion County must be established before July 1, 2024 (instead of July 1, 2022).
- Provides that taxes may not be collected in the additional professional sports development area until after the earlier of:
  - (1) certain conditions having been met; or
  - (2) June 30, 2023 (instead of June 30, 2021).

## **SEA 392, PL 161: MARION COUNTY ZONING**

Author: Mike Young

Sponsor: Behning

- Adds provisions that do the following:
  - (1) Provide that the legislative body and the board of zoning appeals (BZA) of Lawrence, Speedway, Southport, and Beech Grove in Marion County (excluded city) have exclusive territorial jurisdiction within the excluded city's boundaries.
  - (2) Require (rather than allow) the excluded city legislative body to conduct a hearing, acting as the plan commission, on a proposed zone map amendment affecting property within the excluded city. Provides that the excluded city legislative body (instead of the consolidated city and county legislative body) makes the decision regarding the zone map amendment.
  - (3) Allow a member of the excluded city legislative body to appeal a decision of the BZA to the excluded city legislative body.
  - (4) Provide that the excluded city legislative body's decision on the appeal is subject to judicial review.
- Requires all townships to be represented across all the divisions of the board of zoning appeals.
- Provides that not more than two members appointed to each division of the board of zoning appeals may be residents of the same township.
- Requires the appointing authority to consult with the township executive regarding the appointments.
- Requires appeals and applications for variances, special exceptions, special uses, contingent uses, and conditional uses to be allocated to a division of the board of zoning appeals that has at least one member who is a resident of a township in which the property is located that is the subject of the appeal or application.

## **SEA 396, PL 103: 1977 PENSION AND DISABILITY FUND**

Author: Boots

Sponsor: Frye

### **Aim Comments:**

SEA 396 sought to address two issues. The first was that not all communities throughout the state were calculating their contribution levels to the 1977 Fund the same way due to ambiguity in the statutory definitions. SEA 396 standardizes the way the rates are calculated, which could cause increases or decreases to the rates each individual community will need to pay, depending on how that community is currently making the calculation..

The second issue was the existence of "synthetic positions." These were officer classes that existed in the salary matrix for the purposes of calculating pension contributions but were not occupied by any actual officers. While such existing synthetic positions were grandfathered into the bill, any new attempts to do so will be curtailed by annual reporting requirements to the system board, designed to prevent this from happening going forward.

- Amends the definition of “salary of a first class patrolman or first class firefighter” for the purpose of benefits paid from and contributions made to the 1977 police officers’ and firefighters’ pension and disability fund (fund).
- Establishes certain requirements if an employer certifies a new salary under IC 36-8-8-6.5.
- Changes the maximum age for an applicant to a police department from 35 to 39 years of age.
- Requires an employer that participates in the fund and provides longevity increases to pay an amount greater than or equal to the longevity increase paid in the previous year.
- Requires employers to provide reports or records requested by the system board, and permits the system board to fine the employer for each day that reports or records are late.
- Provides that an alleged failure of an employer to make required payments to the 1977 fund may be examined by the state board of accounts or by the Indiana public retirement system.
- Requires employers to submit, both annually and at the request of the system board, the salary of a first class patrolman or firefighter.

### **SEA 398, PL 109: VARIOUS ELECTIONS MATTERS**

Author: Greg Walker

Sponsor: Wesco

- Provides that a political subdivision that conducts or administers an election may not receive or expend funds received from a person (other than from the state or from the federal government) for preparing, administering, or conducting elections, including registering voters.
- Requires the election division (instead of the Indiana election commission) to prescribe a uniform generic seal for use on certain ballots when the circuit court clerk is a candidate on the ballot.
- Requires certification by the county chairman of a candidate in a political party primary or town convention if the candidate cast a nonpartisan ballot at the most recent primary election in which the candidate voted.
- Requires that the notice of an election must include the dates, times, and locations of voting at the circuit court clerk’s office and at satellite offices.
- Provides that notices of elections must be published not later than 21 days before election day. (Under current law, these notices must be published at least 10 days before the date of the election.)
- Prohibits the printing of an independent or political party device on a ballot under specified circumstances.
- Specifies ballot placement of names when there are both at-large and district candidates in an election district.
- Specifies the manner in which a voter with print disabilities may request certain applications.
- Requires the secretary of state to develop a system relating to on-line ballot applications that complies with the Web Content Guidelines for accessibility.
- Provides that a member of the Indiana National Guard deployed or on assignment inside Indiana is entitled to vote by mail.
- Specifies that absent uniformed services voters or overseas voters are entitled to vote by mail using a combined form.
- Requires counties to mail absentee ballots by nonforwardable mail.
- Specifies the list of household family members who may assist an absentee voter.
- Prohibits counting a ballot that is deposited in a drop box or container that is not under the physical control and supervision of the county election board.
- Allows a county election board by unanimous vote to authorize an absentee voter board to visit a voter to complete an absentee ballot application and provide the voter with an absentee ballot.
- Permits absentee travel boards to use optical scan ballot card marking devices.
- Requires locations where absentee in person voting occurs to meet accessibility standards that apply to polling locations on election day.
- Prohibits a ballot label including a straight party ticket option in specified circumstances.

- Establishes standards for a marking device used in a voting system that contains features of both a ballot card voting system and an electronic voting system and produces a ballot card with the voter's choices.
- Establishes standards for voter verifiable paper audit trails.
- Establishes procedures for obtaining a replacement absentee ballot.
- Requires a county to compare signatures upon receipt of an absentee ballot and specifies the procedure.
- Sets forth a procedure if a county election board does not unanimously determine that an absentee ballot signature is genuine.
- Extends the time in which an absentee ballot must be received on election day from noon to 6 p.m.
- Allows all counties to open absentee ballot envelopes by machine (current law only allows for Marion County to use a machine to open ballots).
- Establishes procedures and forms for the curing of mismatched signatures involving an absentee ballot and unsigned absentee ballots.
- Allows an individual who is not a voter to serve as an absentee board member.
- States that the position of an absentee ballot counter or a provisional ballot counter is not a lucrative office for purposes of the Constitution of the State of Indiana.
- Allows a member of the Indiana state recount commission to appoint a proxy.
- Provides for a Level 6 felony for inducing or procuring another person to vote or refrain from voting for or against a candidate or public question at:
  - (1) a caucus; or
  - (2) the appointment of a candidate by a political party chairman or central committee officer; by giving, offering, or promising a person money or other property.
- Changes the deadline for certification of a public question relating to certain school referenda from 60 days to 74 days before the election.
- Specifies that individuals who change residence to outside of a school corporation less than 30 days before the election may not vote on public questions relating to the school corporation.
- Repeals language concerning absentee ballots (moving some language to central voting statutes).
- Makes technical corrections.

### **SEA 400, PL 81: STATEWIDE ELECTRONIC LIEN AND TITLE SYSTEM**

Author: Garten

Sponsor: Pressel

- Requires the bureau of motor vehicles (bureau) to implement a statewide electronic lien and title system (system) to process:
  - (1) vehicle titles;
  - (2) certificate of title data in which a lien is notated; and
  - (3) the notification, maintenance, and release of security interests in vehicles; through electronic means instead of paper documents.
- Provides that the bureau may:
  - (1) contract with one or more qualified vendors to develop and implement a system; or
  - (2) develop an interface to provide qualified electronic lien service providers secure access to data to facilitate the creation of a system.
- Sets forth certain requirements that apply if the bureau elects to implement the system through a qualified vendor versus through qualified electronic lien service providers.
- Specifies that a contract entered into between the bureau and:
  - (1) a qualified vendor; or
  - (2) a qualified electronic lien service provider; may not provide for any costs or charges payable by the bureau to the qualified vendor or the qualified electronic lien service provider.
- Sets forth dates by which the bureau must implement and allow or require the use of:
  - (1) a statewide electronic lien system; and

- (2) a statewide electronic title system.
- Sets forth certain conditions that apply to the use of a statewide electronic lien system implemented by the bureau under these provisions.
- Provides that under certain circumstances, the bureau may not charge state agencies or their agents with certain fees associated with the statewide electronic lien and title system.
- Authorizes the bureau to adopt rules, including emergency rules, to implement these provisions.

#### **SEA 409, PL 162: TOWNSHIP MATTERS**

Author: Niemeyer

Sponsor: Slager

- Makes changes to the information required in the township's annual report.
- Requires the township trustee to annually certify and note on the township budget submitted to the department of local government finance's computer gateway that the township's uniform written standards for township assistance have been filed with the board of county commissioners.
- Allows a township trustee to be appointed as a director of a county building authority.
- Provides that a township is not required to publish the portion of its annual abstract of receipts and expenditures that provides statements of:
  - (1) receipts, showing their source; and
  - (2) expenditures, showing the combined gross payment, according to classification of expense, to each person.
- Provides that the abstract must state that a complete abstract containing the statements described in (1) and (2) is filed with and available for public inspection in the county auditor's office.
- Aligns the township trustee's maintenance duties regarding township cemeteries with the township trustee's maintenance duties as to other cemeteries maintained by the township.

**aim**

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2021

**Community  
and Economic  
Development**

## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
- \$60M toward the Next Level Trails program.
- \$500M to the Regional Economic Acceleration & Development Initiative (READI), led by the Indiana Economic Development Corporation (IEDC).

There was some discussion this session about eliminating the requirement for individuals to obtain a permit in order to carry a handgun, allowing Indiana to become a “permitless carry” or “constitutional carry” state. Instead of eliminating the requirement to obtain a permit, a compromise was made to only eliminate the fee associated with obtaining a permit. This causes a loss of fee revenue to local law enforcement agencies, estimated to be about \$7 million statewide, thus the \$7 million appropriation for local law enforcement training grants through the Indiana Criminal Justice Institute.

The body cameras grant program will require a local match – 50% for cities and towns with a population of 10,000 or more, or 25% for cities and towns with a population of under 10,000. This will be administered by the Indiana State Police.

For more information on the broadband funding, see [OCRA's website](#) and the bill summaries for HEA 1449, SEA 352, SEA 359, and SEA 377. New guidelines are expected by July 1, 2021.

Another major provision worth highlighting is the creation of the READI Program, a similar concept to the original Regional Cities Initiative and funded at \$500 million. Regions are eligible to receive up to \$50 million each to fund projects and initiatives that attract talent and drive economic growth. Neighboring cities, towns, and counties and its coordinating organization (which may be a regional development authority, or a nonprofit organization formed as a partnership between regional stakeholder entities) have until July 1, 2021, to inform the IEDC of their intent to seek funding as a region, with the opportunity to receive planning grants of up to \$50,000. All program information can be found on the IEDC's website [here](#).

The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
  - o If a unit is opted into the state settlement, they waive all other claims against the opioid providers and no future claims may be brought.
  - o 30% of the settlement funds will go to the agency settlement fund.
    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
- Provides that the regular technical session statute does not apply in calendar year 2021.
- Specifies the deadlines for signing enrolled acts and presenting them to the governor for bills passed after April 19, 2021, and before May 1, 2021.
- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
  - (2) That for 2021, the prohibited period concerning fundraising activities is through April 29, 2021, rather than the date on which the general assembly adjourns sine die.
  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)
- Provides provisions for opioid litigation and settlements, including opt out provisions for political subdivisions.
- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
- Establishes the Pokagon Band Tribal-state compact fund and specifies the purposes for the fund.
- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

#### **HEA 1004, PL 82: SMALL BUSINESS RESTART GRANT PROGRAM**

Author: Lindauer

Sponsor: Mishler

- Establishes the Hoosier hospitality small business restart grant program (program) to provide grants to eligible entities to accelerate economic recovery from the impacts of the coronavirus disease (COVID-19) pandemic.
- Establishes the small business restart grant fund (fund).
- Provides that the Indiana economic development corporation (corporation) administers the program and fund.
- Allows the corporation to award grants from the fund.
- Provides parameters for the program.
- However, authorizes the corporation to change the parameters of the program, which, if a change is made, must be reviewed by the budget committee at the meeting following the change.
- Makes an appropriation.

#### **HEA 1025, PL 83: ENTERPRISE ZONE RENEWALS**

Author: Pressel

Sponsor: Bohacek

- Provides that an enterprise zone may be renewed for an additional five year period if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution to renew the enterprise zone.
- Provides that a zone business located in the renewed enterprise zone may only access the

property tax deduction incentive.

### **HEA 1090, PL 172: ALCOHOL MATTERS**

Author: Harris

Sponsor: Charbonneau

- Removes the requirements that:
  - (1) an oil refinery be located within a municipal lakefront development project; and
  - (2) a municipal lakefront development project must be funded in part with local, state, and federal money.
- Requires the alcohol and tobacco commission (commission) to provide notice to the city or town council and the mayor's office of the city or town in which a municipal lakefront development is located of certain hearings.
- Requires the commission to post signs indicating when and where certain hearings will take place.

### **HEA 1164, PL 177: VARIOUS UTILITY MATTERS**

Author: Manning

Sponsor: Messmer

#### **Aim Comments:**

When HEA 1164 was introduced, it contained a variety of telecom-related provisions, many of which were negotiated with the bill's author and sponsor, Aim, other local government and utility stakeholders, and the telecommunications industry.

One section of the bill, as introduced, was designed to streamline right of way permitting and fee structures, but it would have had the effect of negatively impacting the ability of local units to properly manage public rights of way. The good news is that this section was completely removed from the bill, and the language did not pass. Aim and other stakeholders have committed to work together over the interim in an effort to find a more balanced way forward.

Unfortunately, the final version of the bill did still contain language putting new limitations on a permit authority's ability to deny applications for new small cell (5g) poles in residential areas.

Under current law, if a residential neighborhood were designated as a buried utility area prior to May 1, 2017, an application for a new small cell to be installed in the neighborhood would be subject to a local waiver process or zoning procedure, under which the permit authority could deny the placement of a new pole. Under HEA 1164 and effective July 1, 2021, if there is any aboveground infrastructure in the designated area other than light poles and other approved small cell poles, then the permit authority no longer has the ability to deny the placement of new small cell poles under the local waiver process. The oversight is limited to public safety reasons, as it is for small cell poles elsewhere in the community.

Other language was added in this section that changes the notice process when neighborhood associations or homeowners associations request to receive notice of new small cell applications. There is also new, optional "collaboration" language for a permit authority to work with HOAs and neighborhood associations on the preferred location and aesthetics of new poles within the residential neighborhood.

The bill also prohibits permit authorities from imposing maximum height or minimum separation distance requirements on macro cell towers. Any local zoning process still applies, but any ordinances that impose these requirements across the board are not enforceable.

Another section of the bill establishes a calculation for determining nondiscriminatory, just and

reasonable pole attachment fees that are being charged to cable operators by municipalities on municipally-owned electric distribution poles and by rural electric cooperatives.

- Exempts a contract for the lease of state property under which no state expenditures are required from provisions:
  - (1) requiring certain disclosures and certifications by a prospective state contractor regarding violations of Indiana telephone solicitation and automated calling statutes;
  - (2) regarding cancellation of public purchasing contracts due to lack of funds;
  - (3) regarding state contractor use of the E-Verify program; and
  - (4) prohibiting state contractor employment of unauthorized aliens.
- Establishes a calculation for determining nondiscriminatory, just, and reasonable rental fees charged by:
  - (1) rural electric cooperatives; and
  - (2) municipalities providing electric service; that own or control electric distribution poles for attachments to those poles by cable operators.
- Sets forth rights and duties of pole owners and attaching entities with respect to:
  - (1) unauthorized pole attachments; and
  - (2) pole attachment transfers and relocations.
- Provides that the Indiana utility regulatory commission (IURC) may not require a communications service provider to:
  - (1) file a tariff; or
  - (2) report to the IURC any information that is:
    - (A) available to the public on the communications service provider's Internet web site;
    - (B) filed with the FCC; or
    - (C) otherwise available to the public; except as required by the IURC to respond to consumer complaints or information requests from the general assembly.
- Makes the following changes to the statute concerning permits for wireless service providers:
  - (1) Amends the factors that must exist for a permit authority to prohibit the placement of a new utility pole or wireless support structure in connection with the construction, placement, or use of a small cell facility in areas designated strictly for underground or buried utilities.
  - (2) Provides that neighborhood associations, homeowners associations, and homeowners may request to be notified of applications by communications service providers for certain permitted uses of the rights-of-way in those designated areas, in addition to requesting notice of applications for new utility poles or new wireless support structures (as provided under current law).
  - (3) Sets forth a procedure by which a permit authority may elect to collaborate with a neighborhood association or a homeowners association to adopt neighborhood specific guidelines on the preferred location and reasonable aesthetics of new utility poles or new wireless support structures within the neighborhood association's or homeowners association's jurisdiction.
  - (4) Provides that a permit authority may not impose:
    - (A) a restriction on maximum height of a wireless support structure, subject to certain federal regulations and state laws; or
    - (B) a requirement regarding minimum separation distances between wireless support structures.
- Provides that a tariff filed with the IURC by a communications service provider is effective upon filing.
- Provides that a communications service provider may access public rights-of-way under the control of a county or municipality to the same extent as a public utility.
- Provides that a video service provider is not required to provide the IURC with information describing the provider's programming, including the provider's channel lineups or channel guides.

- Exempts a political subdivision’s disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider from certain provisions regarding disposal of property by a political subdivision.
- Provides an exemption to the public works law for certain work done by the employees of a conservancy district established for the purpose of water or sewage treatment.

## **HEA 1191, PL 180: ENERGY MATTERS**

Author: Pressel

Sponsor: Koch

### **Aim Comments:**

HEA 1191 preempts local units of government from proscribing design standards on construction in their jurisdiction that requires certain materials to be used for the purposes of energy savings. This is similar in concept to a much broader bill that was introduced but did not pass which would have preempted the regulation of all design elements on residential structures. Although written more narrowly, HEA 1191 calls into question the ability of communities to enforce certain design and material regulations that have an energy-savings component.

HEA 1191 also preempts local units of government from prohibiting certain types of energy sources in new construction. This is part of a national movement to “ban the ban” on natural gas in new buildings after a handful of cities across the country started to ban natural gas hookups in new buildings.

- Provides that a county executive or the legislative body of a city or town does not have the power to prohibit:
  - (1) a public utility or department of public utilities from furnishing utility service to a utility customer; or
  - (2) a customer of a public utility or department of public utilities from purchasing, using, or connecting or reconnecting to a utility service; based on the energy source of the utility service.
- Defines a “federal phaseout mandate” as any federal statutory or regulatory requirement that:
  - (1) is established after April 20, 2021, by Congress, a federal agency, or a federal executive order; and
  - (2) requires the phaseout or discontinuance of a particular type of electric generating facility, technology, or fuel source.
- Requires the utility regulatory commission to consider in the context of:
  - (1) applications for certificates of public convenience and necessity for new generating facilities; and
  - (2) integrated resource planning; the impact of federal phaseout mandates on the estimated useful life of certain generating facilities of an electric utility, including on depreciation expense associated with such facilities.
- Provides that, except for purposes of compliance with specified building and fire safety laws, a local unit does not have the power to:
  - (1) require that a particular component, design, or type of material be used in the construction of a building because of the energy saving or energy producing qualities of the component, design, or material;
  - (2) prohibit the use of a particular component, design, or type of material in the construction of a building because the component, design, or material does not meet an energy saving standard;
  - (3) require that a building or structure be retrofitted with a particular device or type of material because of the energy saving or energy producing qualities of the device or material;
  - (4) prohibit or restrict the purchase or use of vehicles based upon the type of energy used; or
  - (5) prohibit the sale, installation, or use of:

- (A) natural gas powered:
  - i. home heating equipment;
  - ii. home appliances; or
  - iii. outdoor heating appliances, torches, lamps, or other decorative features; or
- (B) outdoor grills and stoves.
- Specifies that:
  - (1) this prohibition does not apply with respect to requirements included in procurement documents used to procure goods and services, including the construction or design of buildings, to be owned or used by a local unit; and
  - (2) a local unit may adopt bid specifications for a public works project that include energy savings or energy production provisions with respect to the components, design, or materials for the specific project.

### **HEA 1199, PL 86: DRIVING PRIVILEGES**

Author: McNamara

Sponsor: Messmer

- Provides that the bureau of motor vehicles (bureau) shall stay a suspension of a person's driving privileges, and terminate that suspension, upon a showing of proof of future financial responsibility, and provides that an individual whose suspension has been terminated because the individual submitted proof of future financial responsibility is not required to pay a reinstatement fee.
- Requires that the bureau terminate a suspension of a person's driving privileges if the bureau does not receive proof that financial responsibility is not in effect after 180 days.
- Provides that a suspension may be stayed and then terminated if a person fails to pay the judgment.
- Provides that a warrant may be issued for failing to appear in a traffic violation case if the charge is a misdemeanor or a felony.
- Provides that a person whose support obligation is enforced by the Title IV-D agency may have the obligor's driving privileges reinstated.
- Provides that the bureau shall place in forbearance license reinstatement fees of individuals who:
  - (1) are nonviolent offenders;
  - (2) have completed a criminal sentence or are serving terms of probation or parole; and
  - (3) are enrolled in job training or maintain consistent employment for at least three years following completion of job training.
- Provides that the bureau shall waive all reinstatement fees and reinstate the driving privileges of an individual who has had reinstatement fees placed in forbearance after the individual maintains consistent employment for at least three years.
- Provides that the bureau, in collaboration with the department of correction, shall administer programs and activities to facilitate the reinstatement of driving privileges for convicted offenders not later than July 1, 2021.
- Extends the traffic amnesty program for one year to permit certain persons owing unpaid traffic fines, or who may be required to pay a fee for reinstatement of driving privileges, to obtain a reduction in the amount owed or amount payable.

### **HEA 1238, PL 58: NORTHEAST INDIANA DEVELOPMENT COMMISSION**

Author: Heine

Sponsor: Holdman

- Establishes the northeast Indiana strategic development commission (commission) as a body corporate and politic.
- Provides for appointment of members of the commission.
- Specifies the purposes of the commission.

## HEA 1271, PL 38: DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Author: Leonard

Sponsor: Bassler

### **Aim Comments:**

HEA 1271 is the annual agency bill for the Department of Local Government Finance (DLGF). This 134-page bill contains a wide variety of provisions, many of which were initiated by the DLGF as part of their effort to streamline agency processes and others which were brought by individual stakeholders to address local situations. Some of the significant provisions include:

- Aim-initiated language that raises the cap on how much of a local government's budget can be transferred to the Rainy Day Fund in any year from 10% to 15% through 2024, allowing local units to save more general fund dollars while federal stimulus funding is available.
- A prohibition on any future "pancake TIF," where a parcel is included in more than one allocation area after a municipality annexes property that is already in a county TIF area and then layers a new municipal TIF area on the same property.
- An expansion of the ability for political subdivisions to sell bonds at a negotiated sale to include all counties, townships, cities, towns, and school corporations, and an extension on the sunset date of this provision to July 1, 2023 (previously, was set to expire on July 1, 2021).

Because legislation such as HEA 1271 changes certain deadlines or procedures that must be followed when interacting with the DLGF and other state agencies, keep an eye out for all DLGF notices and/or refer to Aim's [Budgeting Assistance](#) information, including the annual [Aim Budget Bulletin](#) during the budgeting process.

- Provides under multiple remonstrance provisions that the department of local government finance (DLGF) may either hold a hearing in the affected county or through electronic means.
- Provides that the state board of accounts is accountable to the legislative council.
- Defines the term "nonconforming" for certain property tax purposes.
- Provides that consent to receive notice of a personal property tax assessment via electronic mail remains in effect unless revoked during the preceding year.
- Replaces the term "railroad car company" with the term "railcar company" for property tax purposes.
- Provides that the DLGF may amend certain public utility assessment administrative rules to reflect statutory changes.
- Provides that the fiscal officer of a political subdivision shall provide the DLGF with a report of any annexations that took place within the county during the preceding year.
- Provides rules and procedures for school corporation budget adoption meetings and hearings.
- Provides that for certain actions taken by the DLGF on tax levies and budgets of a political subdivision, the DLGF shall certify its action to the:
  - (1) state board of accounts;
  - (2) auditor of state; and
  - (3) department of state revenue; if the budget and levy of the political subdivision are being continued.
- Provides that 25 taxpayers of a political subdivision must sign a written request for certain public hearings on budgets, tax rates, or tax levies.
- Provides that a political subdivision shall include an appropriation for bond proceeds in its budget for the ensuing year.
- Provides procedures for the Goshen public library.
- Requires the county auditor of the county in which a political subdivision or school corporation proposes to impose property taxes to determine the:
  - (1) estimated average percentage of property tax increase on a homestead to be paid to the political subdivision or school corporation; and

- (2) estimated average percentage of property tax increase on a business property to be paid to the political subdivision or school corporation.
- Provides a formula for making the estimated average percentage of property tax increase determinations.
- Provides that the DLGF may establish fair and reasonable fees for level three assessor-appraiser examinations and certifications.
- Provides that a parcel of land may not be included in more than one allocation area under several provisions going forward.
- Provides that a district that does not impose a levy under certain circumstances shall give notice of the hearing on the proposed budget and submit the adopted budget in the manner prescribed by the DLGF.
- Provides that the budget of a district that does not impose a levy may not be considered subject to review by the DLGF.
- Provides that for cumulative fund tax levy procedure purposes, if a cumulative fund that has been established in a prior year is not reestablished and the tax rate is not properly certified, the political subdivision may not increase a tax rate for the cumulative fund for the ensuing year.
- Provides that a political subdivision that decides to establish a cumulative fund must give notice in the form required by the DLGF.
- Provides that the DLGF is not required to hold a cumulative fund tax levy public hearing unless the petition expressly alleges that the political subdivision failed to comply with certain procedural requirements.
- Provides that after a political subdivision complies with the cumulative fund tax levy procedural rules, a property tax may be levied annually at the rate adopted by the political subdivision and certified by the DLGF.
- Provides that distributions from the financial institutions tax fund may be used for any legal purpose.
- Provides that a county's distribution of the commercial vehicle excise tax may be used for any legal purpose.
- Amends review procedures for conservancy district budgets.
- Provides that for education emergency loans and anticipatory warrants, a governing body may not increase the debt service fund levy to pay for the interest on the loans or warrants unless the loans or warrants have been issued, and the school corporation has received the proceeds from the loans or warrants.
- Provides that a governing body may not authorize an education emergency loan for the purpose of increasing the school corporation's property tax rate for the ensuing budget year.
- Provides that for temporary education loans, a board of school trustees, including an Indianapolis public school board, may not impose a levy to pay for the interest on the loans from a debt service fund unless the loan has been issued, and the school town or school city has received the loan proceeds.
- Provides that a board of school trustees may not authorize a temporary loan for the purpose of increasing the school town or school city's property tax rate for the ensuing budget year.
- Provides that a county auditor shall forward a list of disannexed lots or lands, as well as a copy of any annexation ordinance, to the DLGF not later than August 1.
- Provides for uses of revenue from the Henry County food and beverage tax.
- Extends the sunset date for provisions that permit certain political subdivisions to sell bonds at a negotiated sale from July 1, 2021, to July 1, 2023, and includes all counties, townships, cities, towns, and school corporations under those provisions.
- Provides that if a remonstrance or objection is filed or raised by an aggrieved person and the:
  - (1) lands of the aggrieved person do not abut any other public way other than the public way to which a vacation petition applies; or
  - (2) vacation of the public way would cause the lands of the aggrieved person to become landlocked with no other convenient or reasonable means of ingress or egress via another

public way; the appropriate legislative body shall deny the petition to vacate the public way.

- Authorizes the town of Winfield and the town of LaGrange to petition the department of local government finance to increase its maximum permissible ad valorem property tax levy in 2022.
- Provides that if a substantial amount of real and personal property in a township has been physically destroyed as a result of a disaster, the county assessor shall order a reassessment of the destroyed property if a petition for reassessment is filed.
- Provides that a sale of aviation fuel is exempt from the aviation fuel excise tax if the aviation fuel is dispensed into an aircraft owned by a certified aerial applicator performing agricultural operations.
- Provides that money accumulated from the Marshall County additional tax rate for criminal justice facilities, after the tax imposed is terminated, shall be transferred to the county jail fund to be established by the county auditor.
- Provides that funds accumulated from the Perry County additional rate for county jail and related buildings after:
  - (1) the redemption of bonds issued; or
  - (2) the final payment of lease rentals due; shall be transferred to the county jail operations fund to be used for financing the maintenance and operations of the Perry County detention center.
- Provides that \$2 from each marriage certificate fee collected shall be deposited in the clerk's record perpetuation fund.
- Increases the:
  - (1) bailiff's service of process by registered or certified mail fee; and
  - (2) cost for the personal service of process by the bailiff or other process server; from \$13 to \$15.
- Increases the amount that a political subdivision may transfer into its rainy day fund from 10% to 15% during calendar years 2021 through 2024.
- Expands the authority of municipalities to annex noncontiguous territory to territory that is occupied by a solar electric generating facility that is or will be interconnected to an electric utility owned by the municipality.
- Amends the definition of "economic improvement project" under the economic improvement districts chapter.
- Adds a provision relating to allocation of tax distributions with regard to fire protection territories.
- Provides that a qualified taxpayer that files an exemption application before September 1, 2021, will be considered to have timely filed exemption applications for various prior years.

## **HEA 1283, PL 188: URBAN AGRICULTURAL ZONES**

Author: Harris

Sponsor: Messmer

- Provides that a qualifying farmer may apply to a designating body to have an area designated as an urban agricultural zone.
- Provides that the term "urban agricultural zone" does not include rooftop gardening or farming practices that occur on the top of a building or residential home.
- Provides that a designating body, before designating an area as an urban agricultural zone, must hold a public hearing and allow for public comment.
- Provides that a designating body may exempt lands located partially or wholly within an urban agricultural zone from property taxation.
- Specifies that a designating body may not impose a special benefit tax for public services provided to an urban agricultural zone, unless the designating body imposed the special benefit tax before it designated the area as an urban agricultural zone.

## HEA 1396, PL 194: ALCOHOLIC BEVERAGES AND TOBACCO

Author: Smaltz

Sponsor: Alting

- Provides that if any provision, or application of any provision, concerning the manufacture, importation, distribution, or retail sale of alcoholic beverages is deemed to be in conflict with federal law or unconstitutional, certain alcoholic beverage laws shall be construed to limit rather than expand the manufacture, importation, distribution, and retail sale of alcoholic beverages through a three-tier system.
- Provides a definition of “three-tier system”.
- Defines the term “channel price”.
- Allows a wholesaler to offer a channel price to a retailer if certain conditions are met.
- Amends the “entertainment complex” definition.
- Provides that the alcohol and tobacco commission (commission) has additional powers with regard to tobacco.
- Provides that certain references to alcoholic beverages in bottles include alcoholic beverages in containers.
- Modifies certain dates concerning alcohol retailer and dealer permits that are deposited with the commission and that may revert to the commission if the permit does not become active.
- Requires the disclosure of the names of the officers of a corporation or other entity applying for a permit in a published notice or Internet web site.
- Adds requirements for a permit holder when making an initial request for deposit of a permit.
- Eliminates Indiana residency requirements for retailers, dealers, and brewers.
- Provides that residential delivery by a beer retailer, liquor retailer, or wine retailer may only be performed by the permit holder or an employee who holds an employee permit.
- Requires a permit holder to maintain a written record of each delivery for at least one year that shows the customer’s name, location of delivery, and quantity sold.
- Provides for “grab and go stores” that are accessible only by ticketed event attendees and provide self-service sales of alcoholic beverages in addition to sales of food and nonalcoholic beverages.
- Provides that certain provisions of the food master hall permit section do not apply to a food hall that:
  - (1) is located in a certified technology park; and
  - (2) operates in a certain type of building or complex of buildings.
- With certain exceptions, requires a permit applicant to provide the name and address of each person or entity holding at least a 2% interest in the permit and business.
- Removes the requirement that the department of local government finance consent to the continuation of a permittee’s business by the permittee’s heir.
- Requires a municipality to notify the chairman of the commission of any retailer or dealer premises annexed into the municipality, in order to ensure the correct distribution of excise funds.
- Allows the holder of a food hall vendor’s permit and a retailer’s permit who also holds a permit for a small brewery, a farm winery, or an artisan distillery to sell certain carry out alcoholic beverages at the retailer’s permit premises.
- Provides that a farm winery may place wine in bottles or other permissible containers.
- Allows a farm winery to sell wine by the can.
- Allows a farm winery to transfer wine from a storage facility or certain locations.
- Allows a farm winery to sell or transfer wine directly to a wine wholesaler.
- Provides that an artisan distiller may transfer liquor from a separate storage facility back to the artisan distiller.
- Allows an artisan distiller to sell or transfer liquor directly to a liquor wholesaler.
- Makes technical corrections and stylistic changes.

## **HEA 1418, PL 197: ECONOMIC DEVELOPMENT**

Author: Negele

Sponsor: Jon Ford

- Provides that an interview or negotiation conducted between the Indiana White River state park development commission (commission) and an industrial or commercial prospect may be held as an executive session.
- Provides that certain records related to negotiations conducted between the commission and an industrial, research, or commercial prospect are exempt from public disclosure under the Access to Public Records Act at the discretion of the commission.
- Provides that application information declared confidential by the Indiana economic development corporation (IEDC) is exempt from public disclosure under the Access to Public Records Act. (Under current law, only application information relating to the Indiana twenty-first century research and technology fund is exempt from public disclosure if declared confidential by the IEDC.)
- Removes the responsibility of the governor to appoint a president of the IEDC and provides instead that the secretary of commerce is also the president of the IEDC.
- Requires the IEDC to post to a transparency portal on the IEDC's Internet web site:
  - (1) final offer of public financial resources to which the IEDC is a party; and
  - (2) reports submitted by the IEDC to the general assembly.
- Provides that the IEDC acts as the small business ombudsman. (Under current law, the IEDC designates a single IEDC employee as the small business ombudsman.)
- Amends the definition of "lender" for purposes of the capital access program.
- Provides that the chairman and treasurer of the commission serve until replaced by the governor or when the member's term expires, whichever occurs earlier.
- Provides that the executive director of the commission is the chief administrative officer of the commission and specifies certain duties and powers of the executive officer.
- Deletes language concerning the composition of the real estate commission.

## **HEA 1449, PL 89: BROADBAND DEVELOPMENT**

Author: Soliday

Sponsor: Koch

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, SEA 352, SEA 359, and SEA 377.

As you can see from the bill summary, HEA 1449 contains many complex provisions. Some of the major highlights include: 1) changing the priorities of the existing Next Level Connections Broadband Grants to favor schools, rural health clinics, and students in addition to the current priority of rural areas; 2) updating standards to new FCC guidelines; 3) creating a new program for subsidy payments for broadband service on behalf of individual consumers with priority to schools, rural health clinics, and students; and 4) creating the Indiana Broadband Connectivity Program under which individuals who do not have access to broadband can post their address on a state portal so providers can bid to extend service to unserved addresses and use state grant funding to do so.

- Amends the statute governing the awarding of grants from the rural broadband fund as follows:
  - (1) Provides that an "eligible broadband project" for purposes of the statute includes a project for the deployment of terrestrial broadband infrastructure:
    - (A) to buildings used by public school corporations primarily for educating students;
    - (B) to rural health clinics;

- (C) to ensure that eligible students (defined as Indiana residents who are less than 23 years of age and who are enrolled in a K-12 school in Indiana) have access points providing a connection to eligible broadband service; and
  - (D) in rural areas in Indiana. (Current law provides that an “eligible broadband project” means only a project for the deployment of broadband infrastructure for the provision of eligible broadband service in rural areas in Indiana.)
- (2) Specifies that terrestrial broadband infrastructure includes infrastructure used for a fixed wireless Internet connection but does not include infrastructure used for a satellite Internet connection.
  - (3) Provides that “eligible broadband service” means a connection to the Internet that provides an actual speed of at least:
    - (A) 1,000 megabits per second downstream for a project involving the deployment of broadband infrastructure to public school corporation buildings or rural health clinics; or
    - (B) 50 megabits per second downstream and at least five megabits per second upstream for a project to provide to eligible students access points for connections to eligible broadband service, or for a project to provide eligible broadband service to rural areas.
  - (4) Specifies the following priorities for the awarding of grants from the rural broadband fund:
    - (A) First, for extending eligible broadband service to public school corporation buildings with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
    - (B) Second, for extending eligible broadband service to rural health clinics with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
    - (C) Third, for extending eligible broadband service so as to ensure that every eligible student has at the student’s residence an access point providing a connection to eligible broadband service.
    - (D) Fourth, extending eligible broadband service to rural areas in which the only available connections to the Internet are at actual speeds of less than 25 megabits per second downstream.
  - (5) Provides that a state agency may fund an eligible broadband project that is designated as a lower priority under the funding priorities set forth in the statute if no competitive applications for eligible broadband projects designated as a higher priority are submitted in a particular round of grant funding.
  - (6) Specifies that a grant may not be awarded from the rural broadband fund:
    - (A) for any project to extend the deployment of eligible broadband service to one or more service addresses for which funding from the federal government has been used or will be disbursed to extend broadband service at actual speeds of at least 25 megabits per second downstream to those same addresses; or
    - (B) if the awarding of the grant would jeopardize funding that has been awarded by the federal government under certain programs for purposes of expanding broadband service in Indiana.
  - (7) Provides that the system of priorities used by the office of community and rural affairs (office) for awarding grants from the rural broadband fund must give preference to projects that require a lower contribution from the fund per passing, as determined by a specified calculation.
  - (8) Provides that the procedures established by the office for the awarding of grants from the rural broadband fund must require the office to:
    - (A) include, in publishing grant applications to the office’s Internet web site, specific addresses for which state funds would be used to provide eligible broadband service; and
    - (B) consider, in making a determination as to whether to award a grant to an applicant, all comments or objections received during the statutory comment period, including any

new grant application that:

- i. is submitted within the statutory comment period by another eligible broadband service provider; and
  - ii. indicates that such other provider would be willing to provide eligible broadband service to the same addresses at a lower cost to the state.
- (9) Requires the office to establish a program to expand broadband Internet connectivity by:
- (A) entering into agreements with broadband service providers under which such providers agree to accept subsidy payments distributed by the office as a form of payment for eligible broadband service; and
  - (B) distributing subsidy payments to participating providers to be used as a form of payment for eligible broadband service provided before July 1, 2025, to certain persons and entities, prioritized as follows:
    - i. School buildings.
    - ii. Rural health clinics.
    - iii. Eligible students.
- (10) Provides that money in the rural broadband fund may be used to provide financial assistance under the new program.
- (A) Requires the office to establish and publish on the office's Internet web site:
    - i. Specific, measurable goals; and
    - ii. Metrics to be used in assessing the progress made toward accomplishing those goals; for the disbursement of state broadband grant funds.
- (11) Requires the office to report annually to the interim study committee on energy, utilities, and telecommunications (rather than to the general assembly, under current law) concerning the awarding of state broadband grants.
- (12) Requires the state board of accounts to conduct an annual audit (rather than an audit every three years, under current law) of the awarding of state broadband grants.
- Establishes the Indiana broadband connectivity program (connectivity program), under which the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
  - Provides that the public broadband portal must solicit information as to whether one or more eligible students reside at an address that is reported by an individual through the portal.
  - Provides that the office may contract or consult with one or more third parties in the creation or administration of the portal.
  - Provides that a broadband Internet provider may:
    - (1) register with the connectivity program;
    - (2) receive, at least every three months, notice of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
    - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
    - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
  - Provides that if the office does not receive notice from any providers that minimum broadband Internet is available at an address reported through the public broadband portal, the office shall transmit to each registered provider a bid notification for provision of broadband Internet service at the address.
  - Specifies requirements for a provider's submission of a bid under the program.
  - Provides that in evaluating the bids received, the office shall select the provider whose bid presents the lowest cost to the state for extension of the provider's broadband Internet infrastructure to the address.

- Provides that the amount of a grant awarded to a registered provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000.
  - (2) A per-passing amount that exceeds the state’s cost per passing for all grants awarded from the rural broadband fund for rural broadband grants as of the last day of the immediately preceding state fiscal year, as calculated by the office.
- Requires the office to enter into an agreement with a provider that is awarded a grant under the program.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the connectivity program.

## **HEA 1466, PL 42: PERFORMANCE BONDING OF DEVELOPERS**

Author: Pressel

Sponsor: Doriot

### **Aim Comments:**

HEA 1466 requires (rather than allows) a local unit to grant a secondary plat approval if the applicant provides either a performance bond for the completion of certain items or written evidence of a contract with a utility for the installation or extension of utilities.

Under current law, the unit has discretion to decide whether to approve the secondary plat with proof of the performance bond or utility contract for all required infrastructure, sidewalks, and landscaping, but this will now be mandatory with the required proof of bond or contract. By requiring a municipality to grant the secondary plat if a developer provides a bond or proof of financial responsibility, it limits the options the municipality may utilize in ensuring projects are completed and may change current procedures in certain communities.

- Requires (rather than allows) a local unit to grant a secondary approval to a plat for a subdivision in which improvements and installations have not been completed if the applicant provides:
  - (1) a performance bond or other proof of financial responsibility; or
  - (2) if installation or extension of utility service is involved, proof of contracting with a utility or a political subdivision for the installation or extension.
- Provides that the only condition precedent that a local unit may require to recording a secondary plat is that the land developer obtain a performance bond or other surety for:
  - (1) unfinished streets, sanitary piping, storm water piping systems, water mains, sidewalks and ornamental landscaping located in common areas; and
  - (2) erosion control.
- Provides a definition of “common area”.

## **HEA 1541, PL 215: LANDLORD-TENANT RELATIONS**

Author: Manning

Sponsor: Buck

### **Aim Comments:**

HEA 1541 is a “clean up” bill, necessitated by the General Assembly’s override of the Governor’s veto of SEA 148 (2020).

During the 2020 session, controversial language was added to SEA 148 to preempt the ability of local units to regulate seven specific aspects of the landlord-tenant relationship, along with a catchall phrase to preempt regulation of “any aspects” of the landlord-tenant relationship. Although this language was aimed at one particular city’s tenants’ rights ordinance, the language in the bill applied statewide.

Aim argued that this language was overly broad and may void many different types of ordinances across the state that weren't originally contemplated with the preemption language. In Governor Holcomb's veto letter, he cited this overbroad language as one of the reasons he vetoed the bill. Although lawmakers overrode the veto, thus allowing SEA 148 to become law, they committed to removing the overbroad language in a later bill, which became HEA 1541.

HEA 1541 removes the catchall language prohibiting local units from regulating "any aspects" of the landlord-tenant relationship, but the law still prohibits local units from regulating seven specific aspects of the landlord-tenant relationship: 1) the screening process used by landlords; 2) security deposits; 3) lease applications; 4) leasing terms and conditions; 5) disclosures concerning the property, lease, or the rights and responsibilities of the parties; 6) the rights of the parties to a lease; and 7) any fees charged by a landlord.

- Eliminates the general restriction on the authority of a county, city, town, or township concerning regulation of landlord-tenant relationship matters not specifically described by state statute.
- Prohibits the waiver of laws regarding retaliatory acts by a landlord.

### **SEA 164, PL 69: ST. JOSEPH COUNTY INNKEEPER'S TAX**

Author: Niezgodski

Sponsor: DeVon

- Provides that the innkeeper's tax board of managers (board of managers) shall support and assist the Potawatomi Zoo to secure bonds up to a term of 20 years to pay costs associated with financing projects for the Potawatomi Zoo.
- Authorizes the county fiscal body to adopt an ordinance to increase the tax rate to not more than 8% on a person renting or furnishing lodging accommodations in St. Joseph County. (Under current law, the tax rate is 6%.)
- Provides that if the county fiscal body adopts an ordinance to increase the tax rate, the county fiscal body must specify the effective date that the ordinance takes effect and immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.
- Creates the Morris Performing Arts Center fund, which shall be administered by the board of managers.
- Creates the tourism capital investment fund, which shall be administered by the board of managers.
- Establishes an application process to award investment money to projects that have a substantial likelihood of increasing overnight guests in the hotel motel industry of St. Joseph County.
- Specifies the amount of tax revenue that the county treasurer shall deposit in the:
  - (1) convention and exhibition center fund;
  - (2) Mishawaka indoor sports complex fund;
  - (3) Potawatomi Zoo fund;
  - (4) Morris Performing Arts Center fund; and
  - (5) tourism capital investment fund.

### **SEA 214, PL 74: LOW INCOME HOUSING**

Author: Holdman

Sponsor: Leonard

- Reinstates provisions that were repealed in the 2016 session in Senate Bill 309 regarding eligibility for the property tax exemption for improvements on real property that are constructed, rehabilitated, or acquired for the purpose of providing low income housing.
- Provides that payments in lieu of taxes (PILOTS) may be required from a property owner claiming such an exemption.

### **SEA 218, PL 75: TOWNSHIP HOMELESS ASSISTANCE**

Author: Sandlin

Sponsor: Pressel

- Establishes the low barrier homeless shelter task force.
- Beginning July 1, 2022:
  - (1) allows a township trustee to place a homeless individual temporarily in a county home or provide temporary township assistance; and
  - (2) requires the township trustees within a county to collaborate and prepare a list of public and private resources available to the homeless population that is distributed and published on the county's Internet web site, if the county has a web site, not later than March 1 of each year.
- Provides that a person commits the offense of criminal trespass if:
  - (1) the person, who does not have a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is designated by a municipality or county enforcement authority to be an unsafe building or premises; or
  - (2) the person knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be an unsafe building or premises; unless the person has the written permission of the owner, the owner's agent, an enforcement authority, or a court to come onto the property for purposes of performing maintenance, repair, or demolition.
- Provides that an individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor.
- Defines "harasses".
- Repeals the chapter concerning panhandling.

### **SEA 245, PL 145: GAMING MATTERS**

Author: Alting

Sponsor: Smaltz

- Provides that net proceeds from an allowable activity and related activities may be used only for the lawful purposes of the qualified organization, including the:
  - (1) repair;
  - (2) maintenance; or
  - (3) improvement; of owned real property used for the lawful purposes of the qualified organization.
- Increases the single prize limit for a progressive or carryover pull tab game in charity gaming to \$15,000.
- Also increases the total prize limit for one pull tab, punchboard, or tip board game in charity gaming to \$15,000.
- Provides that a qualified organization must abide by the rules and regulations of the Internal Revenue Service regarding reporting and withholding rules for charitable prizes paid.
- Provides that for a raffle drawing, a retailer may not retain more than 20% of the proceeds, a retailer must establish and publish house rules, and the maximum amount of prizes in a raffle game is limited to \$30,000.
- Provides that the total prizes for one type II gambling game, except for a raffle game, may not exceed \$10,000.
- Provides that a single prize award for a winning ticket on a seal card game may not exceed \$1,000.
- Provides that a single prize on a progressive or carryover pull tab game in a type II gambling game may not exceed \$5,000.
- Provides that a type II gambling game includes raffles, progressive or carryover pull tab games, and sports-themed tip board and pull tab games.

- Specifies the end date for a licensed entity’s accounting period.
- Replaces “annual casino night license” with “annual activity license”.
- Specifies that the Indiana gaming commission (commission) may issue to a qualified organization an annual activity license to conduct a gambling activity approved by the commission, if certain requirements are met.
- Modifies restrictions applicable to a festival license.
- Modifies the restrictions applicable to a worker at a raffle conducted by a qualified organization.
- Removes a provision that allows the commission to authorize two bingo events each year at which the total prizes may not exceed \$10,000.
- Provides that the commission may authorize a qualified organization to conduct a bingo event at which the total prizes exceed \$6,000, and specifies that such a bingo event may be conducted at a festival.
- Provides that a person less than 18 years of age may sell tickets or chances for a raffle.
- Modifies a provision relating to the license fee for a three year charity gaming license issued to a qualified organization that is a bona fide veterans organization.
- Makes technical corrections and conforming amendments.

### **SEA 304, PL 149: INDEMNITY AGREEMENTS IN PUBLIC WORKS CONTRACTS**

Author: Messmer

Sponsor: Torr

- Provides that a statute that invalidates indemnity agreements in construction contracts relating to providing certain professional services is applicable to such contracts relating to public works projects.
- Provides that a specified chapter does not apply to:
  - (1) projects covered by INDOT’s contractor qualification statute; or
  - (2) a project that is the construction, improvement, alteration, repair, or maintenance of a highway, street, or road.
- Provides that a BOT agreement may provide for the transfer of a public facility to a governmental body by means of a lease or an installment contract.
- Defines certain terms.

### **SEA 310, PL 150: ALCOHOLIC BEVERAGES**

Author: Charbonneau

Sponsor: Smaltz

- Allows a food hall that:
  - (1) is located in a certified technology park; and
  - (2) is not located in a historic district or historic building; to be eligible for a food hall master permit.
- Provides that a project that:
  - (1) borders a lake that is at least 750 acres; and
  - (2) is within a municipality; is eligible for a municipal riverfront development project retailer’s permit.
- Allows a person who holds:
  - (1) a restaurant permit in an economic development area; and
  - (2) an interest in a brewery, farm winery, or artisan distillery (production facility) located on or adjacent to the restaurant; to sell alcoholic beverages manufactured at the production facility for carryout in the restaurant’s general merchandising area and from a self-serving display.
- Provides that a minor may:
  - (1) be in the restaurant’s general merchandising area; and
  - (2) participate in a nondrinking tour of the production facility, if the minor is accompanied by an adult family member.

## **SEA 352, PL 121: BROADBAND DEVELOPMENT**

Author: Koch

Sponsor: Manning

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 359, and SEA 377.

SEA 352 requires the Office of Community and Rural Affairs (OCRA) to establish a new “challenge” process that is specific to the initial letters of intent stage, where prospective applicants write a letter of intent identifying all addresses and census blocks they intend to include in the grant application. Under SEA 352, the address data for the properties that will be served by the proposed project must be publicly posted, and other broadband providers can challenge a listed address or census block as an area that is already served with speeds of at least 25/3. This is designed to prevent overbuilding or allowing certain projects to be subsidized with grant dollars when other providers made the investment to serve the area without assistance.

- Requires the office of community and rural affairs (office) to establish a process to be used before each formal submission of applications for grants from the rural broadband fund (fund) in which the office will:
  - (1) invite any prospective grant applicant to submit a letter of intent identifying all addresses and census blocks that the applicant intends to include in a grant application; and
  - (2) make all addresses and census blocks submitted in letters of intent publicly available for a period of time, during which eligible broadband service providers will have the opportunity to challenge a listed address or census block.
- Provides that challenges under the new process are to be based on the asserted deployment of “minimum broadband Internet” (defined as a terrestrial connection to the Internet that provides an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) at a specific address.
- Specifies that the process established is to precede and remain distinct from the statutory procedures for actual grant applications.
- Provides that the department of transportation (INDOT) may require a private entity to agree, as a condition of INDOT leasing a right-of-way to the private entity, that facilities constructed or installed by the private entity in or under the right-of-way, which if removed would:
  - (1) cause irreparable soil disturbance; or
  - (2) have a detrimental effect on INDOT’s facilities or on the facilities of other utilities; will be considered abandoned without additional consideration, upon the private entity’s written notice to INDOT.
- Provides that upon being abandoned, a facility may no longer be used for any purpose by any public or private entity.

## **SEA 359, PL 156: BROADBAND PROJECTS**

Author: Baldwin

Sponsor: Manning

- Requires the Indiana department of transportation (INDOT) to create a broadband corridor program (dig once program) to manage the location, installation, and maintenance of communications infrastructure that is used for the provision of broadband services and is located within the rights-of-way of limited access highways.
- Requires INDOT to adopt policies, procedures, and standards under the dig once program for required installation of fiber conduit by a public or private entity that performs an excavation

within a limited access highway right-of-way.

## **SEA 377, PL 158: BROADBAND DEVELOPMENT**

Author: Zay

Sponsor: Soliday

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 352, and SEA 359.

SEA 377 allows OCRA to create new broadband coverage maps that have address level specificity. This is in response to the FCC maps which typically consider an area of the state served by broadband if at least one home in the census block has broadband access, a standard that has been overestimating coverage for years.

Like HEA 1449, it also contains language establishing the Indiana Broadband Connectivity Program.

- Establishes the Indiana broadband connectivity program (program) for the purpose of expanding availability of broadband Internet connectivity throughout Indiana.
- Provides that as part of the program, the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
- Provides that a broadband Internet provider may:
  - (1) register with the program;
  - (2) receive, at least every three months, listings of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
  - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
  - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
- Provides that in evaluating any bids received under the program, the office shall select the provider whose bid presents the lowest cost to the state.
- Provides that a grant awarded to a provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000, regardless of the number of addresses served by the line extension.
  - (2) A per-passing amount that exceeds the state's cost per passing for all rural broadband grants awarded from the fund as of the last day of the immediately preceding state fiscal year.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the program.
- Provides that the office may maintain a geographic information system (GIS) or similar data base that contains spatial data regarding the availability of broadband Internet service in Indiana.
- Provides that the office may evaluate the broadband Internet coverage map created by the Federal Communications Commission under the Broadband Deployment Accuracy and Technological Availability Act (FCC map) and:
  - (1) if the office finds that the FCC map:

- (A) provides address level broadband Internet coverage information; or
- (B) provides a greater level of detail than the office's broadband Internet coverage map; use the FCC map to update the office's broadband Internet coverage map; or
- (2) if the office finds that the FCC map does not:
  - (A) provide address level broadband Internet coverage information; or
  - (B) provide a greater level of detail than the office's broadband Internet coverage map; report that finding to the interim study committee on energy, utilities, and telecommunications during the 2022 legislative interim.

### **SEA 381, PL 122: INNKEEPER'S TAX**

Author: Buchanan

Sponsor: Tim Brown

- Changes the distribution of part of the tax revenue in the Tippecanoe County innkeeper's tax fund (fund) so that 10% of the revenue in the fund is distributed to the department of natural resources for the development of projects in the state park and 20% of the revenue in the fund is distributed as determined by the county fiscal body.
- Provides that the Daviess County innkeeper's tax rate may not exceed 9%.
- Provides that all or part of the revenue received from imposition of the innkeeper's tax in Boone County may, subject to authorization by the county fiscal body, be pledged towards payment of obligations issued or entered into by a political subdivision in the county to finance the construction, acquisition, enlargement, and equipping of a sports and recreation facility.
- Provides for collection procedures of a county innkeeper's tax by the department of state revenue if a county fiscal body adopts an ordinance making a change concerning the imposition of the innkeeper's tax.

### **SEA 382, PL 78: ENTREPRENEUR AND ENTERPRISE DISTRICT PILOT PROGRAM**

Author: Buchanan

Sponsor: Negele

- Extends the duration of the entrepreneur and enterprise district pilot program (program) until the later of:
  - (1) five years after the date on which it is designated as a district; or
  - (2) December 31, 2024. (Currently, the program is set to expire in 2022.)
- Requires specific reporting requirements for the program established in the city of Fort Wayne.

### **SEA 384, PL 79: PROFESSIONAL SPORTS AND CONVENTION DEVELOPMENT AREAS**

Author: Holdman

Sponsor: Heine

- Increases the maximum amount of covered taxes that may be captured in the Allen County PSCDA from \$3,000,000 to \$5,000,000.
- Provides for distribution of the covered taxes in the Allen County PSCDA as follows:
  - (1) The first \$2,600,000 to the Allen County War Memorial Coliseum.
  - (2) The next \$400,000 to the Allen County-Fort Wayne capital improvement board (board) for the Grand Wayne Center.
  - (3) The remaining amount to the board to be split evenly between the Allen County War Memorial Coliseum and the Grand Wayne Center.
- Specifies the termination date of the Allen County PSCDA.
- Provides that the Evansville PSCDA (which is currently expired) is renewed beginning after June 30, 2021, for an additional 20 years, including the addition of the downtown convention center hotel to the Evansville PSCDA.
- Provides that the South Bend PSCDA (which is currently expired) is renewed beginning after June 30, 2021, for an additional 20 years, including the addition of three downtown hotels, the Howard Park event center, and facilities located at the Indiana University South Bend campus to the South Bend PSCDA.

- Provides that the maximum amount of covered taxes that may be captured in the renewed South Bend PSCDA is \$2,000,000 per year.
- Revises the expiration date for the PSCDA chapter.

### **SEA 385, PL 11: ADDITIONAL PROFESSIONAL SPORTS DEVELOPMENT AREA**

Author: Sandlin

Sponsor: Speedy

- Provides that an additional professional sports development area in Marion County must be established before July 1, 2024 (instead of July 1, 2022).
- Provides that taxes may not be collected in the additional professional sports development area until after the earlier of:
  - (1) certain conditions having been met; or
  - (2) June 30, 2023 (instead of June 30, 2021).

### **SEA 389, PL 160: WETLANDS**

Author: Garten

Sponsor: Lehman

#### **Aim Comments:**

When SEA 389 was introduced, it was a full repeal of Indiana’s isolated wetlands law. It would have resulted in the repeal of all wetlands regulation in the State of Indiana not required by federal law. This resulted in significant opposition from a variety of stakeholders statewide, including the Indiana Department of Environmental Management (IDEM) and the Indiana Department of Natural Resources (DNR).

In the House, the bill was pared back, targeting deregulation of Class I wetlands and small Class II wetlands. It also protected existing farmland and streamlined the permitting for maintenance work on existing field tiles.

While many stakeholders still felt this bill was an unnecessary and harmful change in current state law, the modifications made by the House were sufficient for the administration to withdraw its full-throated opposition and Governor Holcomb ultimately signed SEA 389 into law.

- Amends the law requiring a permit and compensatory mitigation for “wetland activity” (the discharge of dredged or fill material) in a state regulated wetland:
  - (1) by changing the definition of “Class II wetland”;
  - (2) by providing that wetland activity may be conducted without a permit:
    - (A) in a Class I wetland;
    - (B) in a Class II wetland with an area of not more than three-eighths acre;
    - (C) in an ephemeral stream; and
    - (D) in a Class II wetland that is located within the boundaries of a municipality and has an area of not more than three-fourths acre;
  - (3) by providing that a permit is not needed for the development of cropland that has been used for agricultural purposes:
    - (A) in the five years immediately preceding the development; or
    - (B) in the 10 years immediately preceding the development if the United States Army Corps of Engineers has issued a jurisdictional determination confirming that the cropland does not contain wetlands subject to federal jurisdiction;
  - (4) by providing that wetland activity in a Class II wetland with an area of more than three-eighths acre requires an individual permit;
  - (5) by providing that:
    - (A) maintenance of a field tile in a Class II wetland can be conducted with a general permit if certain conditions are met; and

- (B) maintenance of a field tile in a Class III wetland can be conducted with a general permit if certain conditions are met and the applicant obtains a site-specific approval;
- (6) by establishing conditions for obtaining a site-specific approval;
- (7) by eliminating the compensatory mitigation requirements for wetland activity in a Class I wetland; and
- (8) by requiring the department of environmental management (department) to make a decision to issue or deny an individual permit for wetland activity not later than 90 days (instead of 120 days) after receiving the completed application.
- Amends the law concerning a certification under Section 401 of the federal Clean Water Act for dredge and fill activity in a federally regulated wetland to require the department to make a final determination not later than 90 days (instead of 120 days) after receiving a completed application if the applicant requests a pre-coordination meeting.
- Establishes the Indiana wetlands task force, a 14 member body that:
  - (1) is required to study and make recommendations concerning a number of wetlands issues; and
  - (2) not later than November 1, 2022, issue a report to the general assembly and the governor setting forth its recommendations.
- Requires the department of natural resources to provide staff support to the task force.

### **SEA 392, PL 161: MARION COUNTY ZONING**

Author: Mike Young

Sponsor: Behning

- Adds provisions that do the following:
  - (1) Provide that the legislative body and the board of zoning appeals (BZA) of Lawrence, Speedway, Southport, and Beech Grove in Marion County (excluded city) have exclusive territorial jurisdiction within the excluded city's boundaries.
  - (2) Require (rather than allow) the excluded city legislative body to conduct a hearing, acting as the plan commission, on a proposed zone map amendment affecting property within the excluded city. Provides that the excluded city legislative body (instead of the consolidated city and county legislative body) makes the decision regarding the zone map amendment.
  - (3) Allow a member of the excluded city legislative body to appeal a decision of the BZA to the excluded city legislative body.
  - (4) Provide that the excluded city legislative body's decision on the appeal is subject to judicial review.
- Requires all townships to be represented across all the divisions of the board of zoning appeals.
- Provides that not more than two members appointed to each division of the board of zoning appeals may be residents of the same township.
- Requires the appointing authority to consult with the township executive regarding the appointments.
- Requires appeals and applications for variances, special exceptions, special uses, contingent uses, and conditional uses to be allocated to a division of the board of zoning appeals that has at least one member who is a resident of a township in which the property is located that is the subject of the appeal or application.

### **SEA 409, PL 162: TOWNSHIP MATTERS**

Author: Niemeyer

Sponsor: Slager

- Makes changes to the information required in the township's annual report.
- Requires the township trustee to annually certify and note on the township budget submitted to the department of local government finance's computer gateway that the township's uniform written standards for township assistance have been filed with the board of county commissioners.
- Allows a township trustee to be appointed as a director of a county building authority.

- Provides that a township is not required to publish the portion of its annual abstract of receipts and expenditures that provides statements of:
  - (1) receipts, showing their source; and
  - (2) expenditures, showing the combined gross payment, according to classification of expense, to each person.
- Provides that the abstract must state that a complete abstract containing the statements described in (1) and (2) is filed with and available for public inspection in the county auditor's office.
- Aligns the township trustee's maintenance duties regarding township cemeteries with the township trustee's maintenance duties as to other cemeteries maintained by the township.

**aim**

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## HEA 1002, PL 166 CIVIL IMMUNITY RELATED TO COVID-19

Author: Torr

Sponsor: Messmer

- Protects health care providers from professional discipline for certain acts or omissions arising from a disaster emergency unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a health care provider is not protected from professional discipline for actions that are outside the skills, education, and training of the health care provider, unless certain circumstances apply.
- Specifies that orders and recommendations issued by local, state, and federal government agencies and officials during a state disaster emergency do not create new causes of action or new legal duties.
- Specifies that the orders and recommendations are presumed irrelevant to the issue of the existence of a duty or breach of a duty.
- Prohibits filing a class action lawsuit against a defendant in a civil action allowed by the statute.
- Specifies that a governmental entity or employee is not liable if a loss results from an act or omission arising from COVID-19 unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a person is not liable to a claimant for loss, damage, injury, or death arising from COVID-19 unless the claimant proves that the person caused the loss, damage, injury, or death by an act or omission constituting gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides immunity from civil liability to certain persons, entities, and facilities providing health care and other services for certain acts or omissions related to the provision of health care services and other services during a state disaster emergency.
- Extends COVID-19 health care immunity during periods of disaster emergency after February 29, 2020, and before April 1, 2022.
- Resolves conflicts between SEA 1 and HEA 1002.

## HEA 1030, PL 169: REMOVAL OF A COUNTY ELECTED OFFICER

Author: Aylesworth

Sponsor: Niemeyer

### **Aim Comments:**

HEA 1030 adds “failing to be physically present in the county officer’s office for a reasonable amount of time each month” to the list of reasons a county executive and county fiscal body may initiate a court action to remove a county elected officer from office. The legislation provides a defense to the county officer if the officer’s absence was due to military service or serious illness of the county officer or the county officer’s spouse, parent, child, or stepchild. Under current law, action may only be initiated in court against a county elected official for neglect of duties or charging illegal fees.

HEA 1030 only applies to a county’s auditor, treasurer, recorder, surveyor, or assessor but there may be some interest in the legislature to make this apply to municipal officials in the future. Aim will continue to monitor this issue in upcoming sessions.

- Allows a county executive and county fiscal body to adopt identical resolutions to initiate a court action to remove the county’s auditor, treasurer, recorder, surveyor, or assessor (county officer) for:
  - (1) neglect of duties;
  - (2) charging illegal fees; or
  - (3) failing to be physically present in the county officer’s office for a reasonable amount of time each month. (Under current law, an action for removal of an officer may only be initiated in court on the oath of a person and for a violation described in (1) or (2)).

- Provides that it is a defense to an action for a violation described in (3) that the county officer's absence was due to serious illness of the county officer or the county officer's spouse, parent, child, or stepchild or military service.

### **HEA 1060, PL 13: OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS**

Author: Steuerwald

Sponsor: Koch

- Allows a petition for review of an agency administrative action to be filed by mail, personal service, or electronic mail. (Current law requires a petition for review to be filed by mail or personal service.)
- Provides that the filing of a document in an administrative proceeding is considered complete on the date of electronic submission if the document is sent by electronic mail.
- Allows the ultimate authority of an agency to request that the office of administrative law proceedings (office) review a motion to disqualify an administrative law judge.
- Allows the department of child services to request that the office conduct administrative proceedings on certain administrative actions related to child support and certain substantiated reports of child abuse or neglect.
- Requires the office to maintain confidentiality in administrative proceedings concerning actions by the department of child services.

### **HEA 1064, PL 123: COURTS AND MAGISTRATES**

Author: Cherry

Sponsor: Crider

- Adds a superior court in Hamilton County.
- Provides that the first judge of Hamilton superior court No. 7 shall:
  - (1) be elected at the November 2022 general election;
  - (2) take office January 1, 2023; and
  - (3) serve a term of six years.
- Allows the judges of the Decatur circuit and superior courts to jointly appoint a magistrate to serve the Decatur County courts.
- Allows the judges of the Huntington circuit and superior courts to jointly appoint a magistrate to serve the Huntington County courts.
- Allows the judge of the Lake superior court division No. 4 to appoint a magistrate to serve the Lake superior court division No. 4.
- Allows the Marion County superior courts to appoint 27 full-time magistrates after December 31, 2021, not more than 14 of whom may be from the same political party.
- Removes the sixth circuit court in Delaware County.
- Provides a full-time magistrate for Hancock County.

### **HEA 1110, PL 125 SMALL CLAIMS COURT PROCEDURES**

Author: McNamara

Sponsor: Baldwin

- Provides that a small claims court has jurisdiction over claims that do not exceed \$10,000.

### **HEA 1120, PL 33: JUDICIAL NOMINATING COMMISSION**

Author: Steuerwald

Sponsor: Koch

- Makes certain changes to the election procedures for the attorney commissioners of the judicial nominating commission.

### **HEA 1199, PL 86: DRIVING PRIVILEGES**

Author: McNamara

Sponsor: Messmer

- Provides that the bureau of motor vehicles (bureau) shall stay a suspension of a person's driving privileges, and terminate that suspension, upon a showing of proof of future financial responsibility, and provides that an individual whose suspension has been terminated because the individual submitted proof of future financial responsibility is not required to pay a reinstatement fee.
- Requires that the bureau terminate a suspension of a person's driving privileges if the bureau does not receive proof that financial responsibility is not in effect after 180 days.
- Provides that a suspension may be stayed and then terminated if a person fails to pay the judgment.
- Provides that a warrant may be issued for failing to appear in a traffic violation case if the charge is a misdemeanor or a felony.
- Provides that a person whose support obligation is enforced by the Title IV-D agency may have the obligor's driving privileges reinstated.
- Provides that the bureau shall place in forbearance license reinstatement fees of individuals who:
  - (1) are nonviolent offenders;
  - (2) have completed a criminal sentence or are serving terms of probation or parole; and
  - (3) are enrolled in job training or maintain consistent employment for at least three years following completion of job training.
- Provides that the bureau shall waive all reinstatement fees and reinstate the driving privileges of an individual who has had reinstatement fees placed in forbearance after the individual maintains consistent employment for at least three years.
- Provides that the bureau, in collaboration with the department of correction, shall administer programs and activities to facilitate the reinstatement of driving privileges for convicted offenders not later than July 1, 2021.
- Extends the traffic amnesty program for one year to permit certain persons owing unpaid traffic fines, or who may be required to pay a fee for reinstatement of driving privileges, to obtain a reduction in the amount owed or amount payable.

### **HEA 1256, PL 84: JUVENILE COURT JURISDICTION**

Author: McNamara

Sponsor: Mike Young

- Provides that a child who:
  - (1) commits indecent display by a youth; or
  - (2) commits dangerous possession of a firearm or provides a firearm to another child in certain circumstances; has committed a delinquent act subject to the jurisdiction of a juvenile court.

### **HEA 1293, PL 112: CRIMINAL APPEALS**

Author: Jeter

Sponsor: Mike Young

- Provides that an order granting a motion to discharge a defendant before trial may be appealed to the supreme court or the court of appeals.
- Provides that the state may appeal an interlocutory order if the trial court certifies the appeal and the court on appeal makes certain findings.

### **HEA 1383, PL 115: JUDICIAL OFFICERS**

Author: Cook

Sponsor: Mike Young

- Provides that a person commits battery on a public safety official if the offense is committed against a retired judicial officer while the retired judicial officer is serving as a judge, and allows a retired judicial officer to carry a handgun in the same manner as a judicial officer while the retired judicial officer is serving as a judge.

- Adds current and former probation officers and community corrections officers to the list of persons whose residential addresses may not be disclosed on a public property database website operated by a unit.

### **HEA 1441, PL 201: FULL FAITH AND CREDIT FOR TRIBAL COURT ORDERS**

Author: Delaney

Sponsor: Liz Brown

- Requires that, under certain circumstances, a court of record in Indiana shall give full faith and credit to judgments and orders of a tribal court affiliated with the Pokagon Band of Potawatomi Indians.

### **HEA 1453, PL 204: JUDICIAL SELECTION IN LAKE AND ST. JOSEPH COUNTIES**

Author: Aylesworth

Sponsor: Niemeyer

- Provides that the judicial nominating commission (commission) for the Lake and St. Joseph superior courts consists of seven voting members, with three voting members appointed by the governor and three voting members appointed by the county board of commissioners, and the chief justice of Indiana or the chief justice's designee serving ex officio as a voting member only to resolve tie votes and as chairperson of the commission. (Current law provides that the commission for the Lake superior court consists of nine members.)
- Provides that the governor must appoint to the commission one attorney member, one nonattorney member who has never been licensed to practice law, and one member that is a woman.
- Provides that the county board of commissioners must appoint to the commission one attorney member, one nonattorney member who has never been licensed to practice law, and one member that is from a minority group.
- Provides that the chairperson of the commission shall have standing to dispute the validity of an appointed member.
- Provides that a voting member of the commission for:
  - (1) the Lake superior court shall reside in Lake County; and
  - (2) the St. Joseph superior court shall reside in St. Joseph County.
- Provides that a voting member may not have a prior felony conviction.
- Repeals provisions concerning the appointment of nonattorney commissioners and the election of attorney commissioners to the commission.
- Provides that after the commission has nominated and submitted to the governor the names of five persons to fill a vacancy in the Lake or St. Joseph superior court, the governor shall select the most qualified person to fill the vacancy. (Current law provides that the commission for the Lake superior court nominate and submit to the governor the names of three people to fill a vacancy in the superior court.)
- Makes conforming changes.

### **HEA 1541, PL 215: LANDLORD-TENANT RELATIONS**

Author: Manning

Sponsor: Buck

#### **Aim Comments:**

HEA 1541 is a "clean up" bill, necessitated by the General Assembly's override of the Governor's veto of SEA 148 (2020).

During the 2020 session, controversial language was added to SEA 148 to preempt the ability of local units to regulate seven specific aspects of the landlord-tenant relationship, along with a catchall phrase to preempt regulation of "any aspects" of the landlord-tenant relationship. Although this language was aimed at one particular city's tenants' rights ordinance, the language in the bill applied

statewide.

Aim argued that this language was overly broad and may void many different types of ordinances across the state that weren't originally contemplated with the preemption language. In Governor Holcomb's veto letter, he cited this overbroad language as one of the reasons he vetoed the bill. Although lawmakers overrode the veto, thus allowing SEA 148 to become law, they committed to removing the overbroad language in a later bill, which became HEA 1541.

HEA 1541 removes the catchall language prohibiting local units from regulating "any aspects" of the landlord-tenant relationship, but the law still prohibits local units from regulating seven specific aspects of the landlord-tenant relationship: 1) the screening process used by landlords; 2) security deposits; 3) lease applications; 4) leasing terms and conditions; 5) disclosures concerning the property, lease, or the rights and responsibilities of the parties; 6) the rights of the parties to a lease; and 7) any fees charged by a landlord.

- Eliminates the general restriction on the authority of a county, city, town, or township concerning regulation of landlord-tenant relationship matters not specifically described by state statute.
- Prohibits the waiver of laws regarding retaliatory acts by a landlord.

### **SEA 1, PL 1: CIVIL IMMUNITY RELATED TO COVID-19**

Author: Messmer

Sponsor: Torr

#### **Aim Comments:**

Providing civil liability protections for businesses, nonprofits, and government entities against COVID-19 related lawsuits was a legislative priority for both House and Senate Republican leadership, resulting in companion bills SEA 1 and HEA 1002.

SEA 1 is the bill that includes protections for local governments. It provides civil tort immunity from lawsuits arising from COVID-19, including claims alleging someone contracted COVID-19 on the premises of facilities or offices owned by local governments or in the normal course of doing business with local governments.

This bill ensures that local governments will not incur needless liability for providing essential services during the pandemic and will ward off the potential of frivolous COVID-19 related lawsuits against cities and towns.

- Provides civil tort immunity for damages arising from COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Defines "COVID-19 protective product" and provides civil tort immunity for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Prohibits class action suits.

### **SEA 5, PL 219: LOCAL HEALTH DEPARTMENTS; PUBLIC HEALTH EMERGENCIES**

Author: Garten

Sponsor: Lehman

### **Aim Comments:**

SEA 5 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 263 and HEA 1123). SEA 5 specifically addresses local health departments and oversight by local elected officials.

With SEA 5, if the Governor declares an emergency under IC 10-14-3, any local order issued by a local board of health that is more stringent than the Governor's executive orders must be approved by the legislative body. Any local order that addresses an aspect of the emergency that is not addressed in the Governor's executive orders must likewise be approved by the legislative body.

In counties with a county health department, this will be the county commissioners. For the three city health departments, the order must be approved by the city council and the mayor (or passed over the mayor's veto by a 2/3rds vote).

SEA 5 also establishes a new appeals process before the local legislative body for individuals to appeal an enforcement action taken against them by a local board of health. With this law, an individual that is subject to a local enforcement action can appeal directly to the legislative body. In counties with a county health department, this will be the county commissioners. For the three city health departments, this will be the city council.

The legislative body can choose whether to hear or deny an appeal. If the legislative body agrees to hear an appeal, SEA 5 sets out a framework of procedures that must be followed. This appeals process is only in place when there is a disaster emergency declared by the Governor under IC 10-14-3 or a declared local public health emergency.

There are also other provisions in this bill dealing with the appointment and removal of county health officers.

Governor Holcomb vetoed SEA 5, but the General Assembly reconvened on May 10 and voted 59-30 in the House and 36-10 in the Senate to override his veto. Thus, SEA 5 became effective on May 10, 2021.

- Provides that if a local order addresses an aspect of a declared emergency addressed by an executive order, the local order may be less stringent than the executive order to the extent permitted by the executive order.
- Provides that if a local order addresses an aspect of a declared emergency that is not addressed by an executive order or if a local order addresses an aspect of a declared emergency more stringently than an executive order, the local order may not take effect, or remain in effect, unless the local order is approved by the county legislative body (in the case of a county health department) or by an ordinance adopted by the city legislative body and approved by the mayor (in the case of a city health department).
- Provides that the appointment of a county health officer is subject to the approval of the county legislative body.
- Adds other good cause to the reasons for which a local health officer may be removed in counties other than Marion County.
- Specifies that a local health officer serves until a successor is appointed and qualified.
- Establishes an appeals process before legislative bodies of enforcement actions taken by local boards of health and local health officers in response to declared state and local public health emergencies.

### **SEA 79, PL 67: PROTECTION ORDERS AND DOMESTIC BATTERY**

Author: Crider

Sponsor: McNamara

- Provides that if a petition for an order for protection is filed by a person or on behalf of an unemancipated minor, the court shall determine, after reviewing the petition or making an inquiry, whether issuing the order for protection may impact a school corporation's ability to provide in-person instruction for the person or the unemancipated minor.
- Creates a procedure that requires a school corporation to receive notice if the court determines that issuing the order for protection may impact the school corporation's ability to provide in-person instruction for the person or the unemancipated minor.
- Enhances the penalty for domestic battery to a Level 6 felony if the offense is committed against a family or household member:
  - (1) who has been issued a protection order that protects the family or household member from the person and the protection order was in effect at the time the person committed the offense; or
  - (2) while a no contact order issued by the court directing the person to refrain from having any direct or indirect contact with the family or household member was in effect at the time the person committed the offense.
- Enhances the penalty for domestic battery to a Level 5 felony when the offender has a prior conviction for strangulation against the same family or household member.

### **SEA 133, PL 119: SENTENCING**

Author: Freeman

Sponsor: Speedy

- Provides that a court may suspend only that part of a sentence that is in excess of the minimum sentence for a person convicted of a Level 2 or Level 3 felony who has a prior unrelated felony conviction, other than a conviction for a felony involving marijuana, hashish, hash oil, or salvia divinorum. (Current law provides that a court may suspend any part of a sentence for certain Level 2 and Level 3 felony convictions, including drug related convictions.)

### **SEA 152, PL 25: DELAWARE CIRCUIT COURTS**

Author: Gaskill

Sponsor: Prescott

- Removes the sixth circuit court in Delaware County.

### **SEA 255, PL 52: EXPUNGEMENT**

Author: Freeman

Sponsor: John Young

- Specifies that a "criminal history provider" includes certain persons who regularly publish criminal history information on the Internet, for purposes of the law requiring criminal history providers to periodically review their criminal history records for expunged convictions.

### **SEA 260, PL 108: CIRCUIT COURT CLERK MATTERS**

Author: Greg Walker

Sponsor: Wesco

- Allows a person who is 16 or 17 years of age to serve as a precinct election officer without the written approval of the school principal if school is not in session on election day.
- Provides that such individuals may:
  - (1) serve as certain election officers, both before and on election day;
  - (2) provide assistance to election officers and in the preparation of absentee ballots; and
  - (3) be appointed to fill a vacancy that occurs on a precinct election board.
- Provides that a precinct may be established with fewer than 600 active voters if establishing the precinct would avoid establishing a split precinct.
- Permits a county to submit a proposed precinct boundary change to the election division for review using a module of the statewide voter registration system ("the computerized list") while retaining the option under current law to submit this change by paper.

- Provides a method for a county to correct any errors or discrepancies in the boundary lines of precincts as depicted in information provided by the U.S. Bureau of the Census in conjunction with state redistricting.
- Repeals an obsolete statute relating to establishing precincts.
- Provides that a school that is used as a polling place may on election day:
  - (1) conduct a virtual instruction day for students who attend school in the school building; or
  - (2) conduct in-person instruction to students who attend school in the school building if certain conditions are met.
- Establishes a procedure for casting a voter's ballot at an early voting site by election workers if the voter does not complete the procedures for casting the voter's ballot.
- Provides that absentee ballots may be scanned, but not tabulated, not earlier than seven days before election day.
- Sets forth requirements for processing absentee ballots before election day.
- Requires retraction of a previously scanned absentee ballot card of a voter who is later found disqualified or whose ballot may not be counted for other statutory reasons.
- Eliminates the requirement that the alcohol and tobacco commission distributes a registry of permits to the circuit court clerks.
- Eliminates the requirement that notice of certain alcohol and tobacco commission hearings be given to the circuit court clerk.

### **SEA 368, PL 15: JUVENILE JUSTICE**

Author: Tallian

Sponsor: McNamara

- Provides for the automatic expungement of certain juvenile offenses.
- Prohibits a juvenile arrestee who meets certain requirements from being housed with adult inmates prior to trial, with certain exceptions.
- Establishes a procedure for determining juvenile competency.
- Provides that after a juvenile court has determined that a child is a dual status child, the juvenile court may refer the child to be assessed by a dual status assessment team under certain circumstances.

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### **HEA 1097, PL 124: CRIMINAL PENALTIES**

Author: Abbott

Sponsor: Glick

- Provides that a person who uses a vehicle to commit the offense of resisting law enforcement or interfering with public safety, and has a prior conviction for either offense that involved the use of a vehicle, commits a Level 5 felony.

### **HEA 1115, PL 174: INTERFERING WITH PUBLIC SAFETY**

Author: Miller

Sponsor: Rogers

- Provides that a person who enters a marked off area after having been denied entry by a firefighter commits interfering with public safety. (Under current law, the offense is committed only if the person is denied entry by an emergency medical services provider or a law enforcement officer.)
- Increases the penalty for obstruction of traffic under certain circumstances.

### **HEA 1256, PL 84: JUVENILE COURT JURISDICTION**

Author: McNamara

Sponsor: Mike Young

- Provides that a child who:
  - (1) commits indecent display by a youth; or
  - (2) commits dangerous possession of a firearm or provides a firearm to another child in certain circumstances; has committed a delinquent act subject to the jurisdiction of a juvenile court.

### **HEA 1383, PL 115: JUDICIAL OFFICERS**

Author: Cook

Sponsor: Mike Young

- Provides that a person commits battery on a public safety official if the offense is committed against a retired judicial officer while the retired judicial officer is serving as a judge, and allows a retired judicial officer to carry a handgun in the same manner as a judicial officer while the retired judicial officer is serving as a judge.
- Adds current and former probation officers and community corrections officers to the list of persons whose residential addresses may not be disclosed on a public property database website operated by a unit.

### **HEA 1485, PL 209: VOTING MATTERS**

Author: Wesco

Sponsor: Greg Walker

- Defines “breach of peace” and “law enforcement officer” for purposes of election law.
- Includes an identification document issued by a Native American Indian tribe or band for purposes of proof of identification.
- Specifies to whom a watcher must report any violation of election laws.
- Requires the prior consent of an inspector for a watcher to object to any other precinct election officer concerning an alleged violation of election laws and allows for the removal of the watcher and revocation of credentials for a violation.
- Amends the definition of “electioneering” and adds language prohibiting making verbal statements, displaying certain written statements, or the display of support for the approval or defeat of a public question and electioneering before election day in specified locations.
- Makes it criminal trespass for a person to enter or refuse to leave a polling location after having been prohibited entry or asked to leave by an election officer or a law enforcement officer acting on behalf of an election officer.

### **SEA 17, PL 106: CAMPGROUND MATTERS**

Author: Doriot

Sponsor: Speedy

- Allows a campground owner to ask an individual to leave a campground in certain instances.
- Specifies that an individual who remains on or returns to a campground after having been asked to leave the campground commits criminal trespass.
- Provides that a guest who is asked to leave a campground is entitled to a refund of any unused portion of prepaid fees.

### **SEA 79, PL 67: PROTECTION ORDERS AND DOMESTIC BATTERY**

Author: Crider

Sponsor: McNamara

- Provides that if a petition for an order for protection is filed by a person or on behalf of an unemancipated minor, the court shall determine, after reviewing the petition or making an inquiry, whether issuing the order for protection may impact a school corporation's ability to provide in-person instruction for the person or the unemancipated minor.
- Creates a procedure that requires a school corporation to receive notice if the court determines that issuing the order for protection may impact the school corporation's ability to provide in-person instruction for the person or the unemancipated minor.
- Enhances the penalty for domestic battery to a Level 6 felony if the offense is committed against a family or household member:
  - (1) who has been issued a protection order that protects the family or household member from the person and the protection order was in effect at the time the person committed the offense; or
  - (2) while a no contact order issued by the court directing the person to refrain from having any direct or indirect contact with the family or household member was in effect at the time the person committed the offense.
- Enhances the penalty for domestic battery to a Level 5 felony when the offender has a prior conviction for strangulation against the same family or household member.

### **SEA 122, PL: DRUG SCHEDULES**

Author: Mike Young

Sponsor: McNamara

- Adds new scheduled drugs to the statutory drug schedules.

### **SEA 133, PL 119: SENTENCING**

Author: Freeman

Sponsor: Speedy

- Provides that a court may suspend only that part of a sentence that is in excess of the minimum sentence for a person convicted of a Level 2 or Level 3 felony who has a prior unrelated felony conviction, other than a conviction for a felony involving marijuana, hashish, hash oil, or salvia divinorum. (Current law provides that a court may suspend any part of a sentence for certain Level 2 and Level 3 felony convictions, including drug related convictions.)

### **SEA 167, PL 70: THEFT AND SALE OF CATALYTIC CONVERTERS AND VALUABLE METALS**

Author: Sandlin

Sponsor: John Young

- Provides that the theft of a component part of a motor vehicle, including a catalytic converter, is a Level 6 felony.
- Expands qualifying prior convictions for Level 6 felony theft to include robbery and burglary.
- Provides that a valuable metal dealer who:
  - (1) knowingly or intentionally fails to comply with certain statutes regulating the purchase of a valuable metal; and

(2) purchases a stolen valuable metal; commits a Level 6 felony.

### **SEA 187, PL 94: PROTECTION OF MONUMENTS, MEMORIALS, AND STATUES**

Author: Koch

Sponsor: Lehman

- Requires the state police department to prioritize the investigation and prosecution of persons who destroy, damage, vandalize, or desecrate a monument, memorial, or statue.
- Requires the state police department to assist political subdivisions in the investigation and prosecution of persons who destroy, damage, vandalize, or desecrate a monument, memorial, or statue.
- Provides that discretionary funding for a political subdivision may not be withheld from a political subdivision in certain circumstances.
- Provides that a state agency may provide discretionary funding to a political subdivision for a respective grant program after considering whether the political subdivision has taken all appropriate enforcement actions to protect public monuments, memorials, and statues from destruction or vandalism.
- Defines “discretionary funding”.
- Adds enhanced penalties to the crime of rioting.

### **SEA 201, PL 49: OPERATING WHILE INTOXICATED**

Author: Mike Young

Sponsor: John Young

- Provides a defense to prosecution for a person who operates a vehicle with marijuana or its metabolite in the person’s blood under certain conditions.

### **SEA 218, PL 75: TOWNSHIP HOMELESS ASSISTANCE**

Author: Sandlin

Sponsor: Pressel

- Establishes the low barrier homeless shelter task force.
- Beginning July 1, 2022:
  - (1) allows a township trustee to place a homeless individual temporarily in a county home or provide temporary township assistance; and
  - (2) requires the township trustees within a county to collaborate and prepare a list of public and private resources available to the homeless population that is distributed and published on the county’s Internet web site, if the county has a web site, not later than March 1 of each year.
- Provides that a person commits the offense of criminal trespass if:
  - (1) the person, who does not have a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is designated by a municipality or county enforcement authority to be an unsafe building or premises; or
  - (2) the person knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be an unsafe building or premises; unless the person has the written permission of the owner, the owner’s agent, an enforcement authority, or a court to come onto the property for purposes of performing maintenance, repair, or demolition.
- Provides that an individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor.
- Defines “harasses”. Repeals the chapter concerning panhandling.

## SEA 234, PL 97: WITHHOLDING TAX REMITTANCE

Author: Rogers

Sponsor: Miller

- Requires the department of state revenue (department) to provide written notice, by electronic means, to each employer that is registered in the department's online INTIME program and whose employer's Form WH-1 monthly withholding tax report or withholding tax remittance is past due.
- Requires each payroll service provider to annually register with the department beginning January 1, 2022.
- Specifies the contents of the annual registration form.
- Defines "payroll service provider" and "responsible person" for purposes of these provisions.
- Provides that the department may charge an annual payroll service provider registration fee for purposes of the registration program.
- Provides that a provider shall be permitted to retain any income generated on business client (client) funds while held in a provider's legal possession pending remittance to authorized payees if the client agreement expressly permits it and the provider complies with certain rules.
- Provides that a payroll service provider contract must include a provision that specifies that if the payroll service provider fails to deposit or remit a business client's employer withholding taxes when due, and the failure is caused by an error or omission of the payroll service provider and not by the business client, the payroll service provider shall be required to reimburse the business client for the business client's payment of any penalties or interest assessed by the department as a result of the failure.
- Provides that, if a provider knowingly or intentionally fails to remit taxes withheld, the provider is liable and responsible persons shall be personally liable for such taxes that were withheld and not remitted, along with penalties and interest.
- Provides that a responsible person of the provider who knowingly or intentionally fails to remit taxes that were withheld commits a Class A misdemeanor, and increases the penalty depending on the amount of taxes that were not remitted.
- Provides that the liability shall not be construed to relieve the liability of the employer or any person otherwise with a duty to withhold.
- Provides that the employer's address shall be the address of record with the department for withholding tax purposes and that a payroll service provider may not change the address of record with the department.

**aim**

Accelerate  
Indiana  
Municipalities

2021

**Environmental**

## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
- \$60M toward the Next Level Trails program.
- \$500M to the Regional Economic Acceleration & Development Initiative (READI), led by the Indiana Economic Development Corporation (IEDC).

There was some discussion this session about eliminating the requirement for individuals to obtain a permit in order to carry a handgun, allowing Indiana to become a “permitless carry” or “constitutional carry” state. Instead of eliminating the requirement to obtain a permit, a compromise was made to only eliminate the fee associated with obtaining a permit. This causes a loss of fee revenue to local law enforcement agencies, estimated to be about \$7 million statewide, thus the \$7 million appropriation for local law enforcement training grants through the Indiana Criminal Justice Institute.

The body cameras grant program will require a local match – 50% for cities and towns with a population of 10,000 or more, or 25% for cities and towns with a population of under 10,000. This will be administered by the Indiana State Police.

For more information on the broadband funding, see [OCRA's website](#) and the bill summaries for HEA 1449, SEA 352, SEA 359, and SEA 377. New guidelines are expected by July 1, 2021.

Another major provision worth highlighting is the creation of the READI Program, a similar concept to the original Regional Cities Initiative and funded at \$500 million. Regions are eligible to receive up to \$50 million each to fund projects and initiatives that attract talent and drive economic growth. Neighboring cities, towns, and counties and its coordinating organization (which may be a regional development authority, or a nonprofit organization formed as a partnership between regional stakeholder entities) have until July 1, 2021, to inform the IEDC of their intent to seek funding as a region, with the opportunity to receive planning grants of up to \$50,000. All program information can be found on the IEDC's website [here](#).

The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
  - o If a unit is opted into the state settlement, they waive all other claims against the opioid providers and no future claims may be brought.
  - o 30% of the settlement funds will go to the agency settlement fund.
    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
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- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
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- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
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- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

### **HEA 1496, PL 21: NATURAL RESOURCE MATTERS**

Author: Bartels

Sponsor: Houchin

- Provides that a permit issued to a quarrying or aggregate company for excavation of certain industrial materials is valid for the duration of the permitted project subject to periodic compliance evaluations.
- Establishes that a permit issued for aggregate operations becomes void if construction has not commenced within two years of the issuance of the permit.
- Requires a permit holder to notify the commission within six months after completing a permitted project.
- Provides that a permit issued on or before July 1, 2014, that remains active for a quarrying or aggregate company for excavation of certain industrial materials is valid for the duration of the permitted project subject to permit conditions and periodic evaluations, and requires the holder of the permit to notify the commission not later than January 1, 2022, if the permitted project is still active.
- Provides that failure to notify the commission will cause the permit to expire.
- Requires the holder of the permit to notify the commission that the project is completed within six months after the project’s completion.

### **SEA 53, PL 5: TESTING AND REPORTING OF DISEASED ANIMALS**

Author: Leising

Sponsor: Lehe

- Provides that a veterinarian, owner, caretaker, or custodian of an animal who knows or suspects

that an animal has a disease or condition declared reportable by the state board of animal health (board) must report the existence of the disease or condition to the state veterinarian or local health officer not later than 24 hours after discovering the occurrence or suspected occurrence of the disease or condition. (Currently, they have 48 hours to report a disease.)

- Provides that a laboratory or animal health professional shall report:
  - (1) the type of test performed; and
  - (2) positive diagnoses for certain diseases; not later than 24 hours after a test renders a positive diagnosis.
- Authorizes the board to adopt rules it considers necessary to carry out the reporting of diseases and conditions.
- Provides that the board may issue notice by electronic mail.

### **SEA 227, PL76: ENFORCEMENT OF PESTICIDE VIOLATIONS**

Author: Leising

Sponsor: Lehe

- Provides a list of violations for which the state chemist may impose a civil penalty.
- Eliminates the schedule of civil penalties as adopted by the Indiana pesticide review board. (Under current law, the state chemist imposes a civil penalty in accordance with a schedule of civil penalties as adopted by the Indiana pesticide review board.)
- Provides that the state chemist may adjust a civil penalty by 20% for certain violations if a person responsible for the violation takes mitigating actions.

### **SEA 271, PL 100: ENVIRONMENTAL MATTERS**

Author: Messmer

Sponsor: Aylesworth

- Provides that a property owner claiming the industrial waste control facility property tax exemption must:
  - (1) provide a written statement attesting that the property claimed as exempt meets the requirements for the exemption; and
  - (2) file the statement along with the exemption claim.
- Eliminates provisions under which the property owner must mail a copy of the exemption claim to the department of environmental management (department) and the assessor is required to allow the total exemption claimed by the property owner if the department does not certify its determination to the assessor within 120 days.
- Amends the law concerning the department's preparation of a list of impaired waters to provide for the list to be posted to the department's Internet web site instead of being published in the Indiana Register and to require that the list be made available for public comment for at least 45 days instead of at least 90 days.
- Requires the department to establish a state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments.
- Requires the environmental rules board (board) to adopt rules for the establishment of the state permit program.
- Requires the department, not later than May 15, 2021, to notify the United States Environmental Protection Agency of its intention to establish the state permit program and seek federal approval of the program.
- Establishes the CCR program fund to pay costs incurred by the department in operating the state permit program and conducting program funding reviews.
- Changes, from January 1, 2022, to January 1, 2023, the expiration date of a noncode SECTION of HEA 1278-2019 concerning the adoption of rules to increase the amounts of certain environmental fees.

## SEA 348, PL 154: WASTEWATER TASK FORCE

Author: Koch

Sponsor: Soliday

### **Aim Comments:**

SEA 348 creates an 18-member task force to examine statewide wastewater issues including consolidation, acquisition, and lifecycle management. The task force is also charged with developing a long-term plan to address wastewater needs in Indiana.

Two topics added to the list of items to study include an evaluation of “combined billing” to allow a utility company to allocate a portion of the costs of providing wastewater services to the company’s water customers, and a consideration of the appropriateness of and circumstances for allowing municipally owned utilities to sell water or wastewater services outside of their corporate boundaries.

The membership of this task force will include twelve legislators and six others appointed by the Governor. The Governor’s appointments must include one member specifically representing municipalities served by a wastewater operator that is not under the jurisdiction of the IURC.

This bill was also amended to create a water infrastructure grant program administered by the Indiana Finance Authority, a compliment to the \$60M provided in the budget for new water infrastructure grants.

- Establishes the task force on wastewater infrastructure investment and service to underserved areas (task force).
- Provides that the task force consists of the following 18 members:
  - (1) Six members of the senate, with the president pro tempore appointing four members (one of whom serves as co-chair of the task force), and the minority leader appointing two members.
  - (2) Six members of the house of representatives, with the speaker appointing four members (one of whom serves as co-chair of the task force), and the minority leader appointing two members.
  - (3) Six gubernatorial appointees, including the following:
    - (A) One officer or employee of the state.
    - (B) One member representing operators of wastewater management systems.
    - (C) One engineer, or another professional, with expertise in wastewater management systems.
    - (D) One member representing ratepayers.
    - (E) One member representing municipalities served by a wastewater operator not under the jurisdiction of the utility regulatory commission.
    - (F) One member of the general public.
- Sets forth the duties of the task force.
- Requires the task force to develop a long term plan for addressing wastewater needs in Indiana.
- Requires the task force to issue a report setting forth its recommendations to:
  - (1) the executive director of the legislative services agency for distribution to members of the general assembly; and
  - (2) the governor; not later than December 1, 2021.
- Provides that the bill’s provisions concerning the task force expire January 1, 2022.
- Establishes the water infrastructure grant program (program) to be administered by the Indiana finance authority (authority).
- Establishes the water infrastructure grant fund (fund) as a source of money for grants, loans, and other financial assistance to, or for the benefit of, participants in the program.
- Sets forth purposes for which money in the fund may be used, including the planning, designing, acquisition, construction, renovation, improvement, or expansion of:

- (1) water systems; and
- (2) wastewater or storm water collection and treatment systems.
- Requires the authority to adopt guidelines to establish criteria for the making of grants, loans, and other financial assistance from the fund.
- Sets forth certain conditions that apply to the making of grants, the making of loans, and the providing of other financial assistance from the fund.
- Requires the authority to establish a project prioritization system for the purposes of awarding loans and grants from the fund.
- Sets forth certain variables that the project prioritization system must include.
- Provides that the authority may provide advisory services and other services to a participant in connection with a grant, a loan, or other financial assistance from the fund.
- Requires the public finance director to submit to the budget committee and the legislative council, in each odd-numbered year through 2023, a report concerning grants, loans, or other financial assistance made available to participants from the fund.

### **SEA 389, PL 160: WETLANDS**

Author: Garten

Sponsor: Lehman

#### **Aim Comments:**

When SEA 389 was introduced, it was a full repeal of Indiana’s isolated wetlands law. It would have resulted in the repeal of all wetlands regulation in the State of Indiana not required by federal law. This resulted in significant opposition from a variety of stakeholders statewide, including the Indiana Department of Environmental Management (IDEM) and the Indiana Department of Natural Resources (DNR).

In the House, the bill was pared back, targeting deregulation of Class I wetlands and small Class II wetlands. It also protected existing farmland and streamlined the permitting for maintenance work on existing field tiles.

While many stakeholders still felt this bill was an unnecessary and harmful change in current state law, the modifications made by the House were sufficient for the administration to withdraw its full-throated opposition and Governor Holcomb ultimately signed SEA 389 into law.

- Amends the law requiring a permit and compensatory mitigation for “wetland activity” (the discharge of dredged or fill material) in a state regulated wetland:
  - (1) by changing the definition of “Class II wetland”;
  - (2) by providing that wetland activity may be conducted without a permit:
    - (A) in a Class I wetland;
    - (B) in a Class II wetland with an area of not more than three-eighths acre;
    - (C) in an ephemeral stream; and
    - (D) in a Class II wetland that is located within the boundaries of a municipality and has an area of not more than three-fourths acre;
  - (3) by providing that a permit is not needed for the development of cropland that has been used for agricultural purposes:
    - (A) in the five years immediately preceding the development; or
    - (B) in the 10 years immediately preceding the development if the United States Army Corps of Engineers has issued a jurisdictional determination confirming that the cropland does not contain wetlands subject to federal jurisdiction;
  - (4) by providing that wetland activity in a Class II wetland with an area of more than three-eighths acre requires an individual permit;
  - (5) by providing that:
    - (A) maintenance of a field tile in a Class II wetland can be conducted with a general permit

- if certain conditions are met; and
- (B) maintenance of a field tile in a Class III wetland can be conducted with a general permit if certain conditions are met and the applicant obtains a site-specific approval;
- (6) by establishing conditions for obtaining a site-specific approval;
- (7) by eliminating the compensatory mitigation requirements for wetland activity in a Class I wetland; and
- (8) by requiring the department of environmental management (department) to make a decision to issue or deny an individual permit for wetland activity not later than 90 days (instead of 120 days) after receiving the completed application.
- Amends the law concerning a certification under Section 401 of the federal Clean Water Act for dredge and fill activity in a federally regulated wetland to require the department to make a final determination not later than 90 days (instead of 120 days) after receiving a completed application if the applicant requests a pre-coordination meeting.
- Establishes the Indiana wetlands task force, a 14 member body that:
  - (1) is required to study and make recommendations concerning a number of wetlands issues; and
  - (2) not later than November 1, 2022, issue a report to the general assembly and the governor setting forth its recommendations.
- Requires the department of natural resources to provide staff support to the task force.

**aim**

Accelerate  
Indiana  
Municipalities

2021

**Healthy  
Communities**

## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
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The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
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    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
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  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)
- Provides provisions for opioid litigation and settlements, including opt out provisions for political subdivisions.
- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
- Establishes the Pokagon Band Tribal-state compact fund and specifies the purposes for the fund.
- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

## **HEA 1002, PL 166 CIVIL IMMUNITY RELATED TO COVID-19**

Author: Torr

Sponsor: Messmer

- Protects health care providers from professional discipline for certain acts or omissions arising from a disaster emergency unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a health care provider is not protected from professional discipline for actions that are outside the skills, education, and training of the health care provider, unless certain circumstances apply.
- Specifies that orders and recommendations issued by local, state, and federal government agencies and officials during a state disaster emergency do not create new causes of action or new legal duties.
- Specifies that the orders and recommendations are presumed irrelevant to the issue of the existence of a duty or breach of a duty.
- Prohibits filing a class action lawsuit against a defendant in a civil action allowed by the statute.
- Specifies that a governmental entity or employee is not liable if a loss results from an act or omission arising from COVID-19 unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a person is not liable to a claimant for loss, damage, injury, or death arising from COVID-19 unless the claimant proves that the person caused the loss, damage, injury, or death by an act or omission constituting gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides immunity from civil liability to certain persons, entities, and facilities providing health

care and other services for certain acts or omissions related to the provision of health care services and other services during a state disaster emergency.

- Extends COVID-19 health care immunity during periods of disaster emergency after February 29, 2020, and before April 1, 2022.
- Resolves conflicts between SEA 1 and HEA 1002.

### **HEA 1007, PL 110: STATE HEALTH IMPROVEMENT PLAN AND GRANT PROGRAM**

Author: Vermillion

Sponsor: Charbonneau

- Requires the state department of health (department), in consultation with the office of the secretary of family and social services, to study and prepare a plan (plan) to improve the health and behavioral health of Indiana residents based on specified criteria.
- Requires the department to submit and present the plan to the interim study committee on public health, behavioral health, and human services (interim study committee).
- Requires the department to prepare and present an annual report to the interim study committee regarding the progress made in meeting the metrics and goals of the plan.
- Requires that the department establish and maintain on the department's Internet web site a web page that indicates the performance and progress of the metrics and goals of the most significant areas identified in the plan.
- Establishes the prevention and addressing of health issues and challenges grant program (grant program).
- Establishes the prevention and addressing of health issues and challenges grant fund.
- Requires the department to administer the grant program.
- Provides requirements for grant proposals and specifies the types of proposals for which the grants must be awarded.
- Requires the management performance hub to develop and publish on an Internet web site a web page that tracks Indiana's metrics on the most significant areas of health and behavioral health impacting Indiana residents and demonstrate any progress made in these metrics.
- Provides that the web page must include specific progress reported by organizations awarded a grant under the grant program.

### **HEA 1118, PL 126: MOBILE INTEGRATED HEALTHCARE PROGRAMS AND SAFETY PLANS**

Author: Schaibley

Sponsor: Baldwin

- Specifies that an individualized mental health safety plan includes information concerning a patient's physical health.
- Allows a mobile integrated healthcare program or a mental health community paramedicine program to provide certain services to help facilitate the patient's safe transition back into the community upon disclosure of a patient's individualized mental health safety plan.
- Allows a representative of a mobile integrated healthcare program or a representative of a mental health community paramedicine program to request a patient's individualized mental health safety plan from a psychiatric crisis center, psychiatric inpatient unit, or psychiatric residential treatment provider if certain conditions are met.

### **HEA 1123, PL 64: LEGISLATIVE OVERSIGHT OF CERTAIN FISCAL AND EMERGENCY MATTERS**

Author: Lehman

Sponsor: Glick

#### **Aim Comments:**

HEA 1123 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 5 and SEA 263). HEA 1123 specifically addresses the scope of the Indiana General Assembly's involvement when there is an emergency declared by the Governor.

With HEA 1123, the General Assembly gives itself a new mechanism to call themselves into an emergency session. Under current law, only the Governor can call a special session.

As the bill made its way through the legislative process, Governor Holcomb and several administration officials publicly opposed the bill, saying it unconstitutionally usurps a power given exclusively to the Governor (to call the General Assembly into a special session) and violates the separation of powers. Governor Holcomb vetoed the bill, but the General Assembly quickly overrode the veto. Shortly thereafter, the Governor filed suit against the General Assembly. A private citizen has also filed suit on behalf of Hoosier taxpayers. At the time of this document's publication, the dispute is unresolved.

Other provisions of HEA 1123 deal with legislative oversight of all federal discretionary funds that are received by the state by creating the economic stimulus fund (ESF), into which all such funds must be deposited. Funds deposited into the ESF when the General Assembly is convened cannot be allotted or spent unless appropriated by the General Assembly (or reviewed by the Budget Committee, if they are not in session).

- Specifies that the bill is severable.
- Provides that the general assembly may convene in an emergency session if the legislative council adopts a resolution making certain findings concerning a state of emergency declared by the governor.
- Specifies the maximum length of an emergency session.
- Provides that in an emergency session the general assembly may enact only bills relating to the agenda stated in the legislative council's resolution.
- Provides that the general assembly may adopt concurrent resolutions and each house may adopt simple resolutions during an emergency session.
- Establishes the legislative state of emergency advisory group.
- Creates the economic stimulus fund (ESF) for the deposit of all discretionary funds received by the state.
- Defines "discretionary funds" to mean federal economic stimulus funds received under federal legislation granting the state authority to determine the amounts and manner in which the federal economic stimulus funds may be expended. Provides that discretionary funds deposited into the ESF during a period in which the general assembly is convened in a regular session, an emergency session, or a special session may not be allotted or expended unless appropriated by the general assembly or reviewed by the budget committee.
- Provides that before discretionary funds deposited into the ESF during a period in which the general assembly is not convened in a regular session, an emergency session, or a special session may be allotted to or expended by a state agency or instrumentality, the allotment or expenditure must be reviewed by the budget committee.
- Provides that discretionary funds deposited into the ESF may not be expended, transferred, assigned, or otherwise removed from the ESF by the state board of finance, the budget agency, or any other state agency except as permitted under the provisions of the statute.
- Exempts federal economic stimulus funds obligated or expended before April 29, 2021, from the application of the statute.
- Provides that a violation of the disaster statute (IC 10-14-3) or an order authorized by that statute is a Class B infraction instead of a Class B misdemeanor.

## **HEA 1127, PL 57: MENTAL HEALTH AND ADDICTION FORENSIC TREATMENTS**

Author: Steuerwald

Sponsor: Mike Young

- Removes a provision that allows a:
  - (1) delinquent child's; or
  - (2) person's;Medicaid participation to be terminated following a two year suspension due to certain

- adjudications or incarceration.
- Adds competency restoration services to the list of treatment and wraparound recovery services made available to certain persons in the criminal justice system.
- Adds competency restoration services to the list of services that qualify a person for mental health and addiction forensic treatment services.
- Adds:
  - (1) recovery community organizations; and
  - (2) recovery residences;
 certified by the division of mental health and addiction (division) or its designee to the list of organizations eligible for certain funds and grants from the division.
- Requires demographic data concerning race and ethnicity to be included in certain demographic research performed by the division.

### **HEA 1203, PL 130: VARIOUS DEPARTMENT OF HEALTH MATTERS**

Author: McNamara

Sponsor: Crider

- Provides that the state department of health (department) may officially be known as the Indiana department of health.
- Removes by July 1, 2022, appeals panels from the appeals process of department orders.
- Provides that the executive board or the department's designee may act as the ultimate authority for department matters under the administrative and procedures laws.
- Provides that the state health commissioner (commissioner) is the appointing authority and director of the department.
- Provides that any physicians employed by the department are governed by the state ethics commission's conflict of interest requirements.
- Allows the commissioner to designate in writing employees in the department who are licensed as a physician and may engage in the practice of medicine outside of their official duties.
- Provides that the state is not liable for any act performed by a physician employed by the department for any medical care provided to a patient by the physician that is provided in an individual capacity as a licensed physician.
- Removes the executive board of the department from determining the commissioner's salary.
- Provides that the commissioner's salary is determined by the governor and the state budget agency.
- Removes the executive board's approval for the commissioner to organize the personnel and functions of the department into divisions and subdivisions.
- Specifies that the state department of health may release certain information to an Indiana nonprofit entity that performs health data services for health care providers if specified conditions are met.
- Extends the expiration of the syringe exchange program until July 1, 2026.

### **HEA 1283, PL 188: URBAN AGRICULTURAL ZONES**

Author: Harris

Sponsor: Messmer

- Provides that a qualifying farmer may apply to a designating body to have an area designated as an urban agricultural zone.
- Provides that the term "urban agricultural zone" does not include rooftop gardening or farming practices that occur on the top of a building or residential home.
- Provides that a designating body, before designating an area as an urban agricultural zone, must hold a public hearing and allow for public comment.
- Provides that a designating body may exempt lands located partially or wholly within an urban agricultural zone from property taxation.
- Specifies that a designating body may not impose a special benefit tax for public services provided to an urban agricultural zone, unless the designating body imposed the special benefit

tax before it designated the area as an urban agricultural zone.

### **HEA 1309, PL 87: PREGNANCY ACCOMMODATION**

Author: Engleman

Sponsor: Alting

- Allows an employee to request an accommodation for the employee's pregnancy.
- Requires an employer to respond to an employee's request for an accommodation within a reasonable time frame.
- Provides that a request for accommodation does not require an employer to provide an accommodation for an employee's pregnancy, or impose a duty or obligation upon the employer to provide an accommodation or an exception to the employer's policies unless existing federal or state laws require that an accommodation must be made.
- Prohibits an employer from disciplining, terminating, or retaliating against an employee because the employee has requested or used an accommodation for the employee's pregnancy.

### **HEA 1468, P.L.207-2021: VARIOUS HEALTH MATTERS**

Author: Davisson

Sponsor: Crider

- Requires the office of the secretary of family and social services (office) to apply for a Medicaid state plan amendment or Medicaid waiver for the following:
  - (1) Reimbursement of Medicaid rehabilitation option services for a Medicaid eligible recipient who is undertaking an initial assessment, intake, or counseling in a community mental health center.
  - (2) Reimbursement for Medicaid rehabilitation option services concurrently with reimbursement under the residential addiction treatment program.
- Requires a community mental health center to commence a plan of treatment within two weeks for a Medicaid recipient who receives services after the office has amended the state plan.
- Specifies that for purposes of a community mental health center, telehealth services satisfy any face to face meeting requirement between a clinician and consumer.
- Requires at least two members of the division of mental health and addiction planning and advisory council to be community mental health center chief executive officers or designees.
- Specifies that the division of mental health and addiction (division) has primary oversight over suicide prevention and crisis services activities and coordination and designation of the 9-8-8 crisis hotline centers.
- Sets forth requirements to be designated as a 9-8-8 crisis hotline center.
- Establishes the statewide 9-8-8 trust fund.
- Allows advanced practice registered nurses and physician assistants to perform certain duties that are performed by a physician under the home health agencies laws.
- Allows a nonprofit association of cities and towns to participate in the state aggregate prescription drug purchasing program.
- Requires a public school that issues, after June 30, 2022, a student identification card to a student in grade 6, 7, 8, 9, 10, 11, or 12 to include on the student identification card the 9-8-8 crisis hotline and other crisis hotline phone numbers.
- Delays the requirement that a prescription for a controlled substance be in an electronic format until January 1, 2022.
- Allows for an exemption from the requirement of issuing a controlled substance prescription in an electronic format if the dispensing pharmacy or provider is unable to receive or process an electronically transmitted prescription.
- Requires certain rules adopted by the Indiana board of pharmacy (board) to be substantially similar to certain federal regulations.
- Adds behavior analysts to the definition of "practitioner" for purposes of the telehealth laws.
- Amends the definition of "telehealth".
- Amends the required graduate level courses and clinical experience that an applicant is required

- to obtain for a license as a clinical addiction counselor.
- Allows a pharmacist and pharmacy technician to administer an immunization for coronavirus disease.
- Allows a registered nurse to provide for the direct supervision of a pharmacist intern or pharmacist student who administers an immunization.
- Changes references of the “pharmacist in charge” to the “pharmacist on duty”.
- Allows a pharmacist to supervise eight pharmacy interns.
- Allows a pharmacy technician to work remotely to perform specified responsibilities.
- Provides that the board shall hold the pharmacy permit holder accountable, rather than the qualifying pharmacy, for staffing violations if the qualifying pharmacist does not have the authority to make staffing determinations.
- Specifies that a transfer of a prescription includes a schedule II controlled substance.
- Removes the requirement that a pharmacist provide a patient with a written advance beneficiary notice that states that the patient may not be eligible for reimbursement for the device or supply.
- Changes remote dispensing facility requirements concerning location of the facility.
- Changes how long a remote dispensing facility must retain a surveillance recording from 45 days to 30 days.
- Removes specified physical requirements that a video monitor being used by the remote facility must meet.
- Adds therapeutic substitution to the definition of “protocol” for purposes of drug regimen adjustments and defines “therapeutic alternative” and specifies use of therapeutic alternative requirements for protocols.
- Removes a requirement for drug protocols concerning availability of medical records.
- Allows for physician assistants and advanced practice registered nurses to make referrals to pharmacists.
- Removes the requirement that the executive director of the Indiana professional licensing agency provide advice and consent before a majority of the members of the physical therapist committee may call a meeting.
- Requires the medical licensing board to adopt rules before January 1, 2022, that are required under the laws concerning physician assistants.
- Adds any plan or program that provides payment, reimbursement, or indemnification for the cost of prescription drugs to the definition of a “health plan”.
- Adds two members to the justice reinvestment advisory council.

## **SEA 1, PL 1: CIVIL IMMUNITY RELATED TO COVID-19**

Author: Messmer

Sponsor: Torr

### **Aim Comments:**

Providing civil liability protections for businesses, nonprofits, and government entities against COVID-19 related lawsuits was a legislative priority for both House and Senate Republican leadership, resulting in companion bills SEA 1 and HEA 1002.

SEA 1 is the bill that includes protections for local governments. It provides civil tort immunity from lawsuits arising from COVID-19, including claims alleging someone contracted COVID-19 on the premises of facilities or offices owned by local governments or in the normal course of doing business with local governments.

This bill ensures that local governments will not incur needless liability for providing essential services during the pandemic and will ward off the potential of frivolous COVID-19 related lawsuits against cities and towns.

- Provides civil tort immunity for damages arising from COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Defines “COVID-19 protective product” and provides civil tort immunity for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Prohibits class action suits.

### **SEA 3, P. L.85-2021: TELEHEALTH MATTERS**

Author: Charbonneau

Sponsor: Lindauer

- Prohibits the Medicaid program from specifying originating sites and distant sites for purposes of Medicaid reimbursement.
- Prohibits the use of telehealth to provide any abortion, including the writing or filling of a prescription for any purpose that is intended to result in an abortion.
- Changes the use of the term “telemedicine” to “telehealth”.
- Specifies certain activities that are considered to be health care services for purposes of the telehealth laws.
- Expands the application of the telehealth statute to additional licensed practitioners instead of applying only to prescribers.
- Amends the definition of “prescriber” and “telehealth”.
- Provides that a practitioner who directs an employee to perform a specified health service is held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.
- Requires that the telehealth medical records be created and maintained under the same standards of appropriate practice for medical records for patients in an in-person setting.
- Specifies that a patient waives confidentiality of medical information concerning individuals in the vicinity when the patient is using telehealth.
- Prohibits an employer from requiring a practitioner to provide a health care service through telehealth if the practitioner believes:
  - (1) that health quality may be negatively impacted; or
  - (2) the practitioner would be unable to provide the same standards of appropriate practice as those provided in an in-person setting.
- Provides that an applicable contract, employment agreement, or policy to provide telehealth services must explicitly provide that a practitioner may refuse at any time to provide health care services if in the practitioner’s sole discretion the practitioner believes:
  - (1) that health quality may be negatively impacted; or
  - (2) the practitioner would be unable to provide the same standards of appropriate practice as those provided in an in-person setting.
- Amends requirements for a prescriber issuing a prescription to a patient via telehealth services.
- Requires that if a veterinarian is required to establish a veterinarian-client-patient relationship to perform a health care service, the veterinarian shall ensure that a veterinarian-client-patient relationship is established.
- Repeals the law concerning telepsychology.
- Prohibits certain insurance policies and individual and group contracts from mandating the use of certain technology applications in the provision of telehealth services.

### **SEA 5, PL 219: LOCAL HEALTH DEPARTMENTS; PUBLIC HEALTH EMERGENCIES**

Author: Garten

Sponsor: Lehman

### **Aim Comments:**

SEA 5 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 263 and HEA 1123). SEA 5 specifically addresses local health departments and oversight by local elected officials.

With SEA 5, if the Governor declares an emergency under IC 10-14-3, any local order issued by a local board of health that is more stringent than the Governor's executive orders must be approved by the legislative body. Any local order that addresses an aspect of the emergency that is not addressed in the Governor's executive orders must likewise be approved by the legislative body.

In counties with a county health department, this will be the county commissioners. For the three city health departments, the order must be approved by the city council and the mayor (or passed over the mayor's veto by a 2/3rds vote).

SEA 5 also establishes a new appeals process before the local legislative body for individuals to appeal an enforcement action taken against them by a local board of health. With this law, an individual that is subject to a local enforcement action can appeal directly to the legislative body. In counties with a county health department, this will be the county commissioners. For the three city health departments, this will be the city council.

The legislative body can choose whether to hear or deny an appeal. If the legislative body agrees to hear an appeal, SEA 5 sets out a framework of procedures that must be followed. This appeals process is only in place when there is a disaster emergency declared by the Governor under IC 10-14-3 or a declared local public health emergency.

There are also other provisions in this bill dealing with the appointment and removal of county health officers.

Governor Holcomb vetoed SEA 5, but the General Assembly reconvened on May 10 and voted 59-30 in the House and 36-10 in the Senate to override his veto. Thus, SEA 5 became effective on May 10, 2021.

- Provides that if a local order addresses an aspect of a declared emergency addressed by an executive order, the local order may be less stringent than the executive order to the extent permitted by the executive order.
- Provides that if a local order addresses an aspect of a declared emergency that is not addressed by an executive order or if a local order addresses an aspect of a declared emergency more stringently than an executive order, the local order may not take effect, or remain in effect, unless the local order is approved by the county legislative body (in the case of a county health department) or by an ordinance adopted by the city legislative body and approved by the mayor (in the case of a city health department).
- Provides that the appointment of a county health officer is subject to the approval of the county legislative body.
- Adds other good cause to the reasons for which a local health officer may be removed in counties other than Marion County.
- Specifies that a local health officer serves until a successor is appointed and qualified.
- Establishes an appeals process before legislative bodies of enforcement actions taken by local boards of health and local health officers in response to declared state and local public health emergencies.

### **SEA 63, PL 6: MENTAL HEALTH TREATMENT FOR INMATES**

Author: Glick

Sponsor: Negele

- Permits, under certain circumstances, an offender committed to the department of correction to be held within a treatment facility operated by the department for not more than 14 days beyond the offender’s mandatory release date if:
  - (1) the offender consents; or
  - (2) a court has ordered the offender to be committed to a treatment setting outside the department.

**SEA 77, PL 7: PEER SUPPORT SERVICES AND CISM SERVICES**

Author: Crider

Sponsor: Frye

- Provides, with certain exceptions, that written or oral communications concerning the provision of peer support services and critical incident stress management services (CISM services) to a first responder are confidential and may not be disclosed without the first responder’s consent. (Current law provides that communications concerning CISM services to an emergency responder are confidential.)
- Provides that a first responder’s communication is not confidential and may be disclosed:
  - (1) to prevent the first responder from committing a crime or fraud that the provider of CISM services or peer support services reasonably believes is likely to result in death, substantial bodily harm, or substantial economic injury to another;
  - (2) if it conveys information regarding spousal abuse;
  - (3) if the provider of CISM services or the peer support services was a witness or a party to the incident resulting in the provision of services to the first responder; or
  - (4) if the first responder consents to disclosure.
- Provides that a person providing peer support services is not liable for damages for an act, error, or omission committed by the person in performing peer support services unless the act, error, or omission constitutes wanton, willful, or intentional misconduct.

**SEA 82, PL 138: MENTAL HEALTH DIAGNOSIS**

Author: Crider

Sponsor: Cook

- Defines “mental health diagnosis” and sets forth requirements that must be met in order for certain licensed professionals to provide a mental health diagnosis.
- Requires certain mental health professionals who are making a mental health diagnosis and who determine that the patient may have a physical condition that requires medical attention or has not been examined by a physician, an advanced practice registered nurse, or a physician assistant in the preceding 12 months to:
  - (1) advise the patient to schedule, and offer to assist the patient with scheduling, a physical examination for the patient;
  - (2) provide the patient with a list of practitioners and certain information concerning the practitioners; and
  - (3) coordinate patient care with the practitioner as appropriate.
- Requires documentation of the actions of the licensed professional in the patient’s medical record.

**SEA 218, PL 75: TOWNSHIP HOMELESS ASSISTANCE**

Author: Sandlin

Sponsor: Pressel

- Establishes the low barrier homeless shelter task force.
- Beginning July 1, 2022:
  - (1) allows a township trustee to place a homeless individual temporarily in a county home or provide temporary township assistance; and
  - (2) requires the township trustees within a county to collaborate and prepare a list of public and private resources available to the homeless population that is distributed and published

on the county's Internet web site, if the county has a web site, not later than March 1 of each year.

- Provides that a person commits the offense of criminal trespass if:
  - (1) the person, who does not have a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is designated by a municipality or county enforcement authority to be an unsafe building or premises; or
  - (2) the person knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be an unsafe building or premises; unless the person has the written permission of the owner, the owner's agent, an enforcement authority, or a court to come onto the property for purposes of performing maintenance, repair, or demolition.
- Provides that an individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor.
- Defines "harasses". Repeals the chapter concerning panhandling.

### **SEA 263, PL 99 RELIGIOUS ACTIVITIES AS ESSENTIAL SERVICES**

Author: Koch

Sponsor: Steuerwald

#### **Aim Comments:**

SEA 263 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 5 and HEA 1123). SEA 263 specifically addresses restrictions on religious organizations and the right to worship during disaster emergencies.

Under SEA 263, the state and political subdivisions are prohibited from restricting the right of people to worship in person during a disaster emergency.

Religious organizations can be required to comply with neutral and generally applicable health, safety, or occupancy requirements, but the state and political subdivisions are prohibited from imposing restrictions on religious organizations that are more restrictive than restrictions on other businesses and organizations providing essential services.

- Prohibits the state and a political subdivision from imposing restrictions on a religious organization that are more restrictive than the restrictions imposed upon other businesses and organizations that provide essential services to the public.
- Permits the state or a political subdivision to require a religious organization to comply with a neutral and generally applicable health, safety, or occupancy requirement to the same extent as other organizations, if the requirement is otherwise allowable under Indiana's religious freedom law.
- Provides that the state, a political subdivision, or an officer or employee of the state or a political subdivision may not restrict the right of the people to worship or to worship in person during a disaster emergency.

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## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
- \$60M toward the Next Level Trails program.
- \$500M to the Regional Economic Acceleration & Development Initiative (READI), led by the Indiana Economic Development Corporation (IEDC).

There was some discussion this session about eliminating the requirement for individuals to obtain a permit in order to carry a handgun, allowing Indiana to become a “permitless carry” or “constitutional carry” state. Instead of eliminating the requirement to obtain a permit, a compromise was made to only eliminate the fee associated with obtaining a permit. This causes a loss of fee revenue to local law enforcement agencies, estimated to be about \$7 million statewide, thus the \$7 million appropriation for local law enforcement training grants through the Indiana Criminal Justice Institute.

The body cameras grant program will require a local match – 50% for cities and towns with a population of 10,000 or more, or 25% for cities and towns with a population of under 10,000. This will be administered by the Indiana State Police.

For more information on the broadband funding, see [OCRA's website](#) and the bill summaries for HEA 1449, SEA 352, SEA 359, and SEA 377. New guidelines are expected by July 1, 2021.

Another major provision worth highlighting is the creation of the READI Program, a similar concept to the original Regional Cities Initiative and funded at \$500 million. Regions are eligible to receive up to \$50 million each to fund projects and initiatives that attract talent and drive economic growth. Neighboring cities, towns, and counties and its coordinating organization (which may be a regional development authority, or a nonprofit organization formed as a partnership between regional stakeholder entities) have until July 1, 2021, to inform the IEDC of their intent to seek funding as a region, with the opportunity to receive planning grants of up to \$50,000. All program information can be found on the IEDC's website [here](#).

The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
  - o If a unit is opted into the state settlement, they waive all other claims against the opioid providers and no future claims may be brought.
  - o 30% of the settlement funds will go to the agency settlement fund.
    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
- Provides that the regular technical session statute does not apply in calendar year 2021.
- Specifies the deadlines for signing enrolled acts and presenting them to the governor for bills passed after April 19, 2021, and before May 1, 2021.
- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
  - (2) That for 2021, the prohibited period concerning fundraising activities is through April 29, 2021, rather than the date on which the general assembly adjourns sine die.
  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)
- Provides provisions for opioid litigation and settlements, including opt out provisions for political subdivisions.
- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
- Establishes the Pokagon Band Tribal-state compact fund and specifies the purposes for the fund.
- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

### **HEA 1025, PL 83: ENTERPRISE ZONE RENEWALS**

Author: Pressel

Sponsor: Bohacek

- Provides that an enterprise zone may be renewed for an additional five year period if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution to renew the enterprise zone.
- Provides that a zone business located in the renewed enterprise zone may only access the property tax deduction incentive.

### **HEA 1065, PL 14: FIRE PROTECTION TERRITORIES**

Author: Mayfield

Sponsor: Niemeyer

- Provides that the procedure for adopting an ordinance or resolution to establish a fire protection territory (territory) applies to expanding an existing territory.
- Provides that an ordinance or resolution establishing or expanding a territory must include an agreement as to the disposition of the territory’s property when a participating unit withdraws or the territory is dissolved.
- Specifies that with regard to an ordinance or resolution to establish or expand a territory, the unit must hold three separate public hearings to hear public comment regarding the proposed territory before adoption of the ordinance or resolution, with the last public hearing held not later than 10 days before the ordinance or resolution is adopted.
- Establishes residency requirements for members of a joint executive board of a territory.

## **HEA 1090, PL 172: ALCOHOL MATTERS**

Author: Harris

Sponsor: Charbonneau

- Removes the requirements that:
  - (1) an oil refinery be located within a municipal lakefront development project; and
  - (2) a municipal lakefront development project must be funded in part with local, state, and federal money.
- Requires the alcohol and tobacco commission (commission) to provide notice to the city or town council and the mayor's office of the city or town in which a municipal lakefront development is located of certain hearings.
- Requires the commission to post signs indicating when and where certain hearings will take place.

## **HEA 1164, PL 177: VARIOUS UTILITY MATTERS**

Author: Manning

Sponsor: Messmer

### **Aim Comments:**

When HEA 1164 was introduced, it contained a variety of telecom-related provisions, many of which were negotiated with the bill's author and sponsor, Aim, other local government and utility stakeholders, and the telecommunications industry.

One section of the bill, as introduced, was designed to streamline right of way permitting and fee structures, but it would have had the effect of negatively impacting the ability of local units to properly manage public rights of way. The good news is that this section was completely removed from the bill, and the language did not pass. Aim and other stakeholders have committed to work together over the interim in an effort to find a more balanced way forward.

Unfortunately, the final version of the bill did still contain language putting new limitations on a permit authority's ability to deny applications for new small cell (5g) poles in residential areas.

Under current law, if a residential neighborhood were designated as a buried utility area prior to May 1, 2017, an application for a new small cell to be installed in the neighborhood would be subject to a local waiver process or zoning procedure, under which the permit authority could deny the placement of a new pole. Under HEA 1164 and effective July 1, 2021, if there is any aboveground infrastructure in the designated area other than light poles and other approved small cell poles, then the permit authority no longer has the ability to deny the placement of new small cell poles under the local waiver process. The oversight is limited to public safety reasons, as it is for small cell poles elsewhere in the community.

Other language was added in this section that changes the notice process when neighborhood associations or homeowners associations request to receive notice of new small cell applications. There is also new, optional "collaboration" language for a permit authority to work with HOAs and neighborhood associations on the preferred location and aesthetics of new poles within the residential neighborhood.

The bill also prohibits permit authorities from imposing maximum height or minimum separation distance requirements on macro cell towers. Any local zoning process still applies, but any ordinances that impose these requirements across the board are not enforceable.

Another section of the bill establishes a calculation for determining nondiscriminatory, just and reasonable pole attachment fees that are being charged to cable operators by municipalities on municipally-owned electric distribution poles and by rural electric cooperatives.

- Exempts a contract for the lease of state property under which no state expenditures are required from provisions:
  - (1) requiring certain disclosures and certifications by a prospective state contractor regarding violations of Indiana telephone solicitation and automated calling statutes;
  - (2) regarding cancellation of public purchasing contracts due to lack of funds;
  - (3) regarding state contractor use of the E-Verify program; and
  - (4) prohibiting state contractor employment of unauthorized aliens.
- Establishes a calculation for determining nondiscriminatory, just, and reasonable rental fees charged by:
  - (1) rural electric cooperatives; and
  - (2) municipalities providing electric service; that own or control electric distribution poles for attachments to those poles by cable operators.
- Sets forth rights and duties of pole owners and attaching entities with respect to:
  - (1) unauthorized pole attachments; and
  - (2) pole attachment transfers and relocations.
- Provides that the Indiana utility regulatory commission (IURC) may not require a communications service provider to:
  - (1) file a tariff; or
  - (2) report to the IURC any information that is:
    - (A) available to the public on the communications service provider's Internet web site;
    - (B) filed with the FCC; or
    - (C) otherwise available to the public; except as required by the IURC to respond to consumer complaints or information requests from the general assembly.
- Makes the following changes to the statute concerning permits for wireless service providers:
  - (1) Amends the factors that must exist for a permit authority to prohibit the placement of a new utility pole or wireless support structure in connection with the construction, placement, or use of a small cell facility in areas designated strictly for underground or buried utilities.
  - (2) Provides that neighborhood associations, homeowners associations, and homeowners may request to be notified of applications by communications service providers for certain permitted uses of the rights-of-way in those designated areas, in addition to requesting notice of applications for new utility poles or new wireless support structures (as provided under current law).
  - (3) Sets forth a procedure by which a permit authority may elect to collaborate with a neighborhood association or a homeowners association to adopt neighborhood specific guidelines on the preferred location and reasonable aesthetics of new utility poles or new wireless support structures within the neighborhood association's or homeowners association's jurisdiction.
  - (4) Provides that a permit authority may not impose:
    - (A) a restriction on maximum height of a wireless support structure, subject to certain federal regulations and state laws; or
    - (B) a requirement regarding minimum separation distances between wireless support structures.
- Provides that a tariff filed with the IURC by a communications service provider is effective upon filing.
- Provides that a communications service provider may access public rights-of-way under the control of a county or municipality to the same extent as a public utility.
- Provides that a video service provider is not required to provide the IURC with information describing the provider's programming, including the provider's channel lineups or channel guides.
- Exempts a political subdivision's disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider from certain provisions regarding disposal of property by a political subdivision.

- Provides an exemption to the public works law for certain work done by the employees of a conservancy district established for the purpose of water or sewage treatment.

### **HEA 1166, PL 178: TAX REPRESENTATIVES AND ASSESSOR COMPETENCY**

Author: Soliday

Sponsor: Holdman

- Provides that certified level two assessor-appraisers and certified level three assessor-appraisers may serve as tax representatives under certain circumstances.
- Provides that a taxpayer may submit a written complaint to the department of local government finance if the taxpayer has reason to believe the assessing official failed to adhere to Uniform Standards of Professional Appraisal Practice or does not have the necessary competency to perform the assessment.
- Provides that notice of a taxpayer’s right to submit a written complaint must be included on the taxpayer’s notice of assessment or reassessment.

### **HEA 1231, PL 19: LIEN REMOVAL FEES**

Author: Saunders

Sponsor: Niemeyer

- Provides that a political subdivision is required to pay a \$25 fee to a county recorder for the recording of a release of a lien or liens held by the political subdivision on a parcel:
  - (1) for which a certificate of sale is sold; or
  - (2) that is disposed of by a political subdivision; regardless of the number of liens the political subdivision holds on the parcel.
- Provides that if a county containing a consolidated city has:
  - (1) established a housing trust fund; and
  - (2) adopted an ordinance authorizing a \$10 recording fee per document for deposit in the housing trust fund; the county recorder may charge the \$10 recording fee per document in addition to the \$25 fee for the recording of a release of a lien or liens held by a political subdivision.
- Provides how a county recorder must deposit fees collected for the recording of a release of a lien or liens held by a political subdivision.

### **HEA 1271, PL 38: DEPARTMENT OF LOCAL GOVERNMENT FINANCE**

Author: Leonard

Sponsor: Bassler

#### **Aim Comments:**

HEA 1271 is the annual agency bill for the Department of Local Government Finance (DLGF). This 134-page bill contains a wide variety of provisions, many of which were initiated by the DLGF as part of their effort to streamline agency processes and others which were brought by individual stakeholders to address local situations. Some of the significant provisions include:

- Aim-initiated language that raises the cap on how much of a local government’s budget can be transferred to the Rainy Day Fund in any year from 10% to 15% through 2024, allowing local units to save more general fund dollars while federal stimulus funding is available.
- A prohibition on any future “pancake TIF,” where a parcel is included in more than one allocation area after a municipality annexes property that is already in a county TIF area and then layers a new municipal TIF area on the same property.
- An expansion of the ability for political subdivisions to sell bonds at a negotiated sale to include all counties, townships, cities, towns, and school corporations, and an extension on the sunset date of this provision to July 1, 2023 (previously, was set to expire on July 1, 2021).

Because legislation such as HEA 1271 changes certain deadlines or procedures that must be followed when interacting with the DLGF and other state agencies, keep an eye out for all DLGF notices and/

or refer to Aim's [Budgeting Assistance](#) information, including the annual [Aim Budget Bulletin](#) during the budgeting process.

- Provides under multiple remonstrance provisions that the department of local government finance (DLGF) may either hold a hearing in the affected county or through electronic means.
- Provides that the state board of accounts is accountable to the legislative council.
- Defines the term "nonconforming" for certain property tax purposes.
- Provides that consent to receive notice of a personal property tax assessment via electronic mail remains in effect unless revoked during the preceding year.
- Replaces the term "railroad car company" with the term "railcar company" for property tax purposes.
- Provides that the DLGF may amend certain public utility assessment administrative rules to reflect statutory changes.
- Provides that the fiscal officer of a political subdivision shall provide the DLGF with a report of any annexations that took place within the county during the preceding year.
- Provides rules and procedures for school corporation budget adoption meetings and hearings.
- Provides that for certain actions taken by the DLGF on tax levies and budgets of a political subdivision, the DLGF shall certify its action to the:
  - (1) state board of accounts;
  - (2) auditor of state; and
  - (3) department of state revenue; if the budget and levy of the political subdivision are being continued.
- Provides that 25 taxpayers of a political subdivision must sign a written request for certain public hearings on budgets, tax rates, or tax levies.
- Provides that a political subdivision shall include an appropriation for bond proceeds in its budget for the ensuing year.
- Provides procedures for the Goshen public library.
- Requires the county auditor of the county in which a political subdivision or school corporation proposes to impose property taxes to determine the:
  - (1) estimated average percentage of property tax increase on a homestead to be paid to the political subdivision or school corporation; and
  - (2) estimated average percentage of property tax increase on a business property to be paid to the political subdivision or school corporation.
- Provides a formula for making the estimated average percentage of property tax increase determinations.
- Provides that the DLGF may establish fair and reasonable fees for level three assessor-appraiser examinations and certifications.
- Provides that a parcel of land may not be included in more than one allocation area under several provisions going forward.
- Provides that a district that does not impose a levy under certain circumstances shall give notice of the hearing on the proposed budget and submit the adopted budget in the manner prescribed by the DLGF.
- Provides that the budget of a district that does not impose a levy may not be considered subject to review by the DLGF.
- Provides that for cumulative fund tax levy procedure purposes, if a cumulative fund that has been established in a prior year is not reestablished and the tax rate is not properly certified, the political subdivision may not increase a tax rate for the cumulative fund for the ensuing year.
- Provides that a political subdivision that decides to establish a cumulative fund must give notice in the form required by the DLGF.
- Provides that the DLGF is not required to hold a cumulative fund tax levy public hearing unless the petition expressly alleges that the political subdivision failed to comply with certain procedural requirements.

- Provides that after a political subdivision complies with the cumulative fund tax levy procedural rules, a property tax may be levied annually at the rate adopted by the political subdivision and certified by the DLGF.
- Provides that distributions from the financial institutions tax fund may be used for any legal purpose.
- Provides that a county's distribution of the commercial vehicle excise tax may be used for any legal purpose.
- Amends review procedures for conservancy district budgets.
- Provides that for education emergency loans and anticipatory warrants, a governing body may not increase the debt service fund levy to pay for the interest on the loans or warrants unless the loans or warrants have been issued, and the school corporation has received the proceeds from the loans or warrants.
- Provides that a governing body may not authorize an education emergency loan for the purpose of increasing the school corporation's property tax rate for the ensuing budget year.
- Provides that for temporary education loans, a board of school trustees, including an Indianapolis public school board, may not impose a levy to pay for the interest on the loans from a debt service fund unless the loan has been issued, and the school town or school city has received the loan proceeds.
- Provides that a board of school trustees may not authorize a temporary loan for the purpose of increasing the school town or school city's property tax rate for the ensuing budget year.
- Provides that a county auditor shall forward a list of disannexed lots or lands, as well as a copy of any annexation ordinance, to the DLGF not later than August 1.
- Provides for uses of revenue from the Henry County food and beverage tax.
- Extends the sunset date for provisions that permit certain political subdivisions to sell bonds at a negotiated sale from July 1, 2021, to July 1, 2023, and includes all counties, townships, cities, towns, and school corporations under those provisions.
- Provides that if a remonstrance or objection is filed or raised by an aggrieved person and the:
  - (1) lands of the aggrieved person do not abut any other public way other than the public way to which a vacation petition applies; or
  - (2) vacation of the public way would cause the lands of the aggrieved person to become landlocked with no other convenient or reasonable means of ingress or egress via another public way; the appropriate legislative body shall deny the petition to vacate the public way.
- Authorizes the town of Winfield and the town of LaGrange to petition the department of local government finance to increase its maximum permissible ad valorem property tax levy in 2022.
- Provides that if a substantial amount of real and personal property in a township has been physically destroyed as a result of a disaster, the county assessor shall order a reassessment of the destroyed property if a petition for reassessment is filed.
- Provides that a sale of aviation fuel is exempt from the aviation fuel excise tax if the aviation fuel is dispensed into an aircraft owned by a certified aerial applicator performing agricultural operations.
- Provides that money accumulated from the Marshall County additional tax rate for criminal justice facilities, after the tax imposed is terminated, shall be transferred to the county jail fund to be established by the county auditor.
- Provides that funds accumulated from the Perry County additional rate for county jail and related buildings after:
  - (1) the redemption of bonds issued; or
  - (2) the final payment of lease rentals due; shall be transferred to the county jail operations fund to be used for financing the maintenance and operations of the Perry County detention center.
- Provides that \$2 from each marriage certificate fee collected shall be deposited in the clerk's record perpetuation fund.
- Increases the:

- (1) bailiff's service of process by registered or certified mail fee; and
- (2) cost for the personal service of process by the bailiff or other process server; from \$13 to \$15.
- Increases the amount that a political subdivision may transfer into its rainy day fund from 10% to 15% during calendar years 2021 through 2024.
- Expands the authority of municipalities to annex noncontiguous territory to territory that is occupied by a solar electric generating facility that is or will be interconnected to an electric utility owned by the municipality.
- Amends the definition of "economic improvement project" under the economic improvement districts chapter.
- Adds a provision relating to allocation of tax distributions with regard to fire protection territories.
- Provides that a qualified taxpayer that files an exemption application before September 1, 2021, will be considered to have timely filed exemption applications for various prior years.

### **HEA 1283, PL 188: URBAN AGRICULTURAL ZONES**

Author: Harris

Sponsor: Messmer

- Provides that a qualifying farmer may apply to a designating body to have an area designated as an urban agricultural zone.
- Provides that the term "urban agricultural zone" does not include rooftop gardening or farming practices that occur on the top of a building or residential home.
- Provides that a designating body, before designating an area as an urban agricultural zone, must hold a public hearing and allow for public comment.
- Provides that a designating body may exempt lands located partially or wholly within an urban agricultural zone from property taxation.
- Specifies that a designating body may not impose a special benefit tax for public services provided to an urban agricultural zone, unless the designating body imposed the special benefit tax before it designated the area as an urban agricultural zone.

### **HEA 1285, PL 111: BUREAU OF MOTOR VEHICLES**

Author: Lindauer

Sponsor: Garten

- Provides that the bureau of motor vehicles (bureau) shall remit certain taxes not more than 21 days after the collection of the tax.
- Provides that in the first year an amended surtax or wheel tax rate is effective, the prior surtax or wheel tax rate (as applicable) for the previous calendar year applies to vehicle registrations.
- Provides that the definition of "credential" includes any form of documentation in physical form or digital form accessible on a mobile device issued by the bureau.
- Changes the definition of a motor driven cycle to the current definition of a Class B motor driven cycle.
- Provides that the bureau of motor vehicles commission is protected by the Indiana Tort Claims Act.
- Expands the types of transactions that the bureau may perform on election day with priority given to credential related transactions.
- Provides that the bureau may no longer collect fees associated with Riverlink tolls. (Current law provides for the bureau to accept payments for Riverlink tolls.)
- Provides that temporary license plates may be displayed in the rear window of a vehicle, rather than affixed to the rear of the vehicle.
- Removes the requirement that the bureau report to law enforcement if a license plate or other proof of registration is lost.
- Provides that temporary delivery permits may be displayed on a vehicle in a manner determined by the bureau.

- Provides that a person who becomes an Indiana resident and owns a watercraft must register the watercraft not later than 60 days after becoming an Indiana resident.
- Provides that a person who fails to register a watercraft within the 60 days after becoming an Indiana resident is subject to an administrative penalty of \$15 and commits a Class C infraction.
- Provides that a motor driven cycle may not be operated unless the vehicle is registered as a motor driven cycle.
- Provides that a holder of a learner's permit may operate a motor driven cycle.
- Provides that the bureau may charge a fee of \$25 for expediting certain credentials.
- Provides that the bureau shall suspend driving privileges or invalidate the learner's permit of an individual who is at least 15 years of age and less than 18 years of age in certain situations.
- Replaces the term "operator's license" with the term "driver's license".
- Requires that an individual who has completed driver rehabilitation training hold a learner's permit.
- Provides that an individual who has signed the application of a minor applicant for a permit or driver's license may subsequently file with the bureau, and be granted, a verified written request that the permit or driver's license expire.
- Allows the bureau to renew a learner's permit, rather than issuing a new learner's permit.
- Allows an individual to renew a learner's permit online.
- Provides that the bureau may approve third parties to conduct skills exams.
- Removes the provision allowing a licensed driver or an applicant for an initial or renewal driver's license, permit, or endorsement to appeal an action taken by the bureau to revoke or modify the person's driving privileges for medical reasons to the circuit or superior court of the county where the licensed driver or applicant resides prior to exhausting an administrative appeal.
- Requires individuals to complete driver's safety programs in certain instances.
- Requires the bureau to implement suspensions for an individual who fails to attend and complete required programs.
- Allows the bureau to contract with physicians to increase the number of reviewers for medical case files to support and provide recommendations on the revocation of a license for an individual with underlying health conditions.
- Removes the requirement for special groups to obtain 500 signatures when reapplying for the special group recognition license plate every 10 years.
- Decreases the number of days a new resident under 18 years of age is required to hold an out-of-state license to 60 days. (Current law requires that a new resident under 18 years of age hold an out-of-state license for 180 days.)
- Provides that courts must submit the probable cause affidavit in a form and manner prescribed by the bureau.
- Provides that the bureau shall not place any indication on certain credentials issued by the bureau of the vaccination status of an individual.
- Provides that the bureau shall not request information regarding the individual's vaccination status or proof of immunity when an individual applies for a credential.
- Provides that the bureau shall not maintain a data base regarding an individual's vaccination status or proof of immunity.
- Provides that the bureau shall not connect any bureau data base with any data base that tracks an individual's vaccination status or proof of immunity.
- Repeals the requirement to request a certificate of compliance for proof of financial responsibility if a motor vehicle accident occurred at least five years prior to the date the bureau receives the copy of the accident report.
- Provides that the bureau may enter into an agreement with the office of administrative law proceedings to conduct reviews on the bureau's behalf.
- Makes conforming changes.

## **HEA 1348, PL 191: ASSESSMENT OF UTILITY GRADE SOLAR PROJECTS**

Author: Soliday

Sponsor: Messmer

- Provides that, for assessment dates beginning after December 31, 2021, the land portion of the fixed property of a utility grade solar energy installation facility shall be assessed at an amount that does not exceed the solar land base rate for the region in which the property is located.
- Provides that assessing officials shall follow the normal guidelines and procedures as are applicable under the property tax cap chapter.
- Provides a limited exception for certain utility grade solar energy installation facilities that were assessed on the January 1, 2021, assessment date.
- Requires the department of local government finance (department) to annually determine and release a solar land base rate for each region based on the median true tax value per acre of all land in the region classified under the utility property class codes of the department for the immediately preceding assessment date.

### **HEA 1353, PL 192: RELIGIOUS USE PROPERTY TAX EXEMPTION**

Author: Speedy

Sponsor: Freeman

- Requires a sales disclosure form to include an attestation that a property transferred will continue to be used by a church or religious society for the same tax exempt purpose.
- Provides that a county assessor that reasonably suspects that property transferred is no longer being used by a church or religious society for the same tax exempt purpose may request articles of incorporation or bylaws to confirm the attestation included in the sales disclosure form.
- Provides that the request for articles of incorporation or bylaws to confirm the attestation must:
  - (1) be made in writing; and
  - (2) include a written explanation of the assessor's reasonable suspicion describing why the assessor believes that the property transferred is no longer being used by the church or religious society for the same tax exempt purpose.
- Specifies that the provisions in the bill apply to transactions occurring after December 31, 2021.
- Provides that when an exempt property owned by a church or religious society is transferred to another church or religious society to be used for the same exempt purpose, the transferee church or religious society is not required to file an exemption application with the county assessor.
- Provides that if the property remains eligible for the exemption, the exempt status carries over to the transferee church or religious society.

### **HEA 1396, PL 194: ALCOHOLIC BEVERAGES AND TOBACCO**

Author: Smaltz

Sponsor: Alting

- Provides that if any provision, or application of any provision, concerning the manufacture, importation, distribution, or retail sale of alcoholic beverages is deemed to be in conflict with federal law or unconstitutional, certain alcoholic beverage laws shall be construed to limit rather than expand the manufacture, importation, distribution, and retail sale of alcoholic beverages through a three-tier system.
- Provides a definition of "three-tier system".
- Defines the term "channel price".
- Allows a wholesaler to offer a channel price to a retailer if certain conditions are met.
- Amends the "entertainment complex" definition.
- Provides that the alcohol and tobacco commission (commission) has additional powers with regard to tobacco.
- Provides that certain references to alcoholic beverages in bottles include alcoholic beverages in containers.
- Modifies certain dates concerning alcohol retailer and dealer permits that are deposited with

- the commission and that may revert to the commission if the permit does not become active.
- Requires the disclosure of the names of the officers of a corporation or other entity applying for a permit in a published notice or Internet web site.
- Adds requirements for a permit holder when making an initial request for deposit of a permit.
- Eliminates Indiana residency requirements for retailers, dealers, and brewers.
- Provides that residential delivery by a beer retailer, liquor retailer, or wine retailer may only be performed by the permit holder or an employee who holds an employee permit.
- Requires a permit holder to maintain a written record of each delivery for at least one year that shows the customer's name, location of delivery, and quantity sold.
- Provides for "grab and go stores" that are accessible only by ticketed event attendees and provide self-service sales of alcoholic beverages in addition to sales of food and nonalcoholic beverages.
- Provides that certain provisions of the food master hall permit section do not apply to a food hall that:
  - (1) is located in a certified technology park; and
  - (2) operates in a certain type of building or complex of buildings.
- With certain exceptions, requires a permit applicant to provide the name and address of each person or entity holding at least a 2% interest in the permit and business.
- Removes the requirement that the department of local government finance consent to the continuation of a permittee's business by the permittee's heir.
- Requires a municipality to notify the chairman of the commission of any retailer or dealer premises annexed into the municipality, in order to ensure the correct distribution of excise funds.
- Allows the holder of a food hall vendor's permit and a retailer's permit who also holds a permit for a small brewery, a farm winery, or an artisan distillery to sell certain carry out alcoholic beverages at the retailer's permit premises.
- Provides that a farm winery may place wine in bottles or other permissible containers.
- Allows a farm winery to sell wine by the can.
- Allows a farm winery to transfer wine from a storage facility or certain locations.
- Allows a farm winery to sell or transfer wine directly to a wine wholesaler.
- Provides that an artisan distiller may transfer liquor from a separate storage facility back to the artisan distiller.
- Allows an artisan distiller to sell or transfer liquor directly to a liquor wholesaler.
- Makes technical corrections and stylistic changes.

### **HEA 1432, PL 117: POLITICAL SUBDIVISION RISK MANAGEMENT**

Author: Lehman

Sponsor: Zay

- Requires the Indiana Public Employers' Plan, Inc. (IPEP), which was established as a domestic nonprofit corporation, to apply for a certificate of authority to transact business as a domestic tax exempt reciprocal insurance company.
- Provides that, when IPEP receives the certificate of authority and begins to transact business as a domestic tax exempt reciprocal insurance company, all powers, duties, agreements, and liabilities that IPEP had as a domestic nonprofit corporation are transferred to the domestic tax exempt reciprocal insurance company as the successor entity.
- Repeals and strikes provisions under which mutual insurance associations and reciprocal associations formed and operating for the writing of worker's compensation insurance are exempt from certain laws.

### **HEA 1437, PL 88: ELECTRONIC MEETINGS AND SIGNATURES**

Author: Cook

Sponsor: Rogers

### **Aim Comments:**

HEA 1437 creates a framework for the use of virtual meetings both outside times of emergency and in future times of emergency. It also allows the use of electronic signatures. This was one of Aim's legislative initiatives going into this session and is an important step toward providing greater flexibility for local units of government to conduct meetings.

During times of declared disaster emergencies, the legislation allows public meetings to be fully virtual (no in-person attendance necessary). This puts into state statute what was allowed by the Governor's executive orders during the COVID-19 pandemic.

To utilize virtual meetings when there is not a declared disaster emergency, the governing body must adopt a local policy. The local policy can be more strict than the state law, but not less strict, and there are several state-set guardrails that must be met if the governing body wants to allow its members to participate virtually in meetings. Unlike times of emergency, some in-person attendance is required, so these will be "hybrid" virtual meetings.

Aim has compiled several documents to help you navigate the procedures for holding electronic meetings going forward, including sample resolutions, guidance, practical tips, and a tracking chart. You can access all this information [here](#).

- Allows a member of a governing body of a political subdivision to participate in a meeting electronically subject to the following:
  - (1) Requires the governing body to adopt a written policy establishing procedures for electronic participation.
  - (2) Requires the technology to permit simultaneous communication between members and the public to attend and observe the proceedings.
  - (3) Requires at least 50% of the members to be physically present at the meeting site.
  - (4) Allows a member participating electronically to be counted for quorum purposes.
  - (5) Provides that a member participating electronically may participate in a final action taken by the governing body only if the member can be seen and heard.
- Exempts governing bodies of state agencies that have a majority of members with disabilities from certain attendance requirements.
- Provides that if a statute requires a manual signature for attesting or authenticating an obligation issued by certain state and local public entities, an electronic signature has the same force and effect as a manual signature.
- Adds provisions applicable to state and local public agencies when a state or local disaster emergency is declared.
- Makes stylistic changes.

### **HEA 1449, PL 89: BROADBAND DEVELOPMENT**

Author: Soliday

Sponsor: Koch

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, SEA 352, SEA 359, and SEA 377.

As you can see from the bill summary, HEA 1449 contains many complex provisions. Some of the major highlights include: 1) changing the priorities of the existing Next Level Connections Broadband Grants to favor schools, rural health clinics, and students in addition to the current priority of rural

areas; 2) updating standards to new FCC guidelines; 3) creating a new program for subsidy payments for broadband service on behalf of individual consumers with priority to schools, rural health clinics, and students; and 4) creating the Indiana Broadband Connectivity Program under which individuals who do not have access to broadband can post their address on a state portal so providers can bid to extend service to unserved addresses and use state grant funding to do so.

- Amends the statute governing the awarding of grants from the rural broadband fund as follows:
  - (1) Provides that an “eligible broadband project” for purposes of the statute includes a project for the deployment of terrestrial broadband infrastructure:
    - (A) to buildings used by public school corporations primarily for educating students;
    - (B) to rural health clinics;
    - (C) to ensure that eligible students (defined as Indiana residents who are less than 23 years of age and who are enrolled in a K-12 school in Indiana) have access points providing a connection to eligible broadband service; and
    - (D) in rural areas in Indiana. (Current law provides that an “eligible broadband project” means only a project for the deployment of broadband infrastructure for the provision of eligible broadband service in rural areas in Indiana.)
  - (2) Specifies that terrestrial broadband infrastructure includes infrastructure used for a fixed wireless Internet connection but does not include infrastructure used for a satellite Internet connection.
  - (3) Provides that “eligible broadband service” means a connection to the Internet that provides an actual speed of at least:
    - (A) 1,000 megabits per second downstream for a project involving the deployment of broadband infrastructure to public school corporation buildings or rural health clinics; or
    - (B) 50 megabits per second downstream and at least five megabits per second upstream for a project to provide to eligible students access points for connections to eligible broadband service, or for a project to provide eligible broadband service to rural areas.
  - (4) Specifies the following priorities for the awarding of grants from the rural broadband fund:
    - (A) First, for extending eligible broadband service to public school corporation buildings with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
    - (B) Second, for extending eligible broadband service to rural health clinics with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
    - (C) Third, for extending eligible broadband service so as to ensure that every eligible student has at the student’s residence an access point providing a connection to eligible broadband service.
    - (D) Fourth, extending eligible broadband service to rural areas in which the only available connections to the Internet are at actual speeds of less than 25 megabits per second downstream.
  - (5) Provides that a state agency may fund an eligible broadband project that is designated as a lower priority under the funding priorities set forth in the statute if no competitive applications for eligible broadband projects designated as a higher priority are submitted in a particular round of grant funding.
  - (6) Specifies that a grant may not be awarded from the rural broadband fund:
    - (A) for any project to extend the deployment of eligible broadband service to one or more service addresses for which funding from the federal government has been used or will be disbursed to extend broadband service at actual speeds of at least 25 megabits per second downstream to those same addresses; or
    - (B) if the awarding of the grant would jeopardize funding that has been awarded by the federal government under certain programs for purposes of expanding broadband service in Indiana.

- (7) Provides that the system of priorities used by the office of community and rural affairs (office) for awarding grants from the rural broadband fund must give preference to projects that require a lower contribution from the fund per passing, as determined by a specified calculation.
  - (8) Provides that the procedures established by the office for the awarding of grants from the rural broadband fund must require the office to:
    - (A) include, in publishing grant applications to the office's Internet web site, specific addresses for which state funds would be used to provide eligible broadband service; and
    - (B) consider, in making a determination as to whether to award a grant to an applicant, all comments or objections received during the statutory comment period, including any new grant application that:
      - i. is submitted within the statutory comment period by another eligible broadband service provider; and
      - ii. indicates that such other provider would be willing to provide eligible broadband service to the same addresses at a lower cost to the state.
  - (9) Requires the office to establish a program to expand broadband Internet connectivity by:
    - (A) entering into agreements with broadband service providers under which such providers agree to accept subsidy payments distributed by the office as a form of payment for eligible broadband service; and
    - (B) distributing subsidy payments to participating providers to be used as a form of payment for eligible broadband service provided before July 1, 2025, to certain persons and entities, prioritized as follows:
      - i. School buildings.
      - ii. Rural health clinics.
      - iii. Eligible students.
  - (10) Provides that money in the rural broadband fund may be used to provide financial assistance under the new program.
    - (A) Requires the office to establish and publish on the office's Internet web site:
      - i. Specific, measurable goals; and
      - ii. Metrics to be used in assessing the progress made toward accomplishing those goals; for the disbursement of state broadband grant funds.
  - (11) Requires the office to report annually to the interim study committee on energy, utilities, and telecommunications (rather than to the general assembly, under current law) concerning the awarding of state broadband grants.
  - (12) Requires the state board of accounts to conduct an annual audit (rather than an audit every three years, under current law) of the awarding of state broadband grants.
- Establishes the Indiana broadband connectivity program (connectivity program), under which the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
  - Provides that the public broadband portal must solicit information as to whether one or more eligible students reside at an address that is reported by an individual through the portal.
  - Provides that the office may contract or consult with one or more third parties in the creation or administration of the portal.
  - Provides that a broadband Internet provider may:
    - (1) register with the connectivity program;
    - (2) receive, at least every three months, notice of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
    - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
    - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet

service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.

- Provides that if the office does not receive notice from any providers that minimum broadband Internet is available at an address reported through the public broadband portal, the office shall transmit to each registered provider a bid notification for provision of broadband Internet service at the address.
- Specifies requirements for a provider's submission of a bid under the program.
- Provides that in evaluating the bids received, the office shall select the provider whose bid presents the lowest cost to the state for extension of the provider's broadband Internet infrastructure to the address.
- Provides that the amount of a grant awarded to a registered provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000.
  - (2) A per-passing amount that exceeds the state's cost per passing for all grants awarded from the rural broadband fund for rural broadband grants as of the last day of the immediately preceding state fiscal year, as calculated by the office.
- Requires the office to enter into an agreement with a provider that is awarded a grant under the program.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the connectivity program.

## **SEA 1, PL 1: CIVIL IMMUNITY RELATED TO COVID-19**

Author: Messmer

Sponsor: Torr

### **Aim Comments:**

Providing civil liability protections for businesses, nonprofits, and government entities against COVID-19 related lawsuits was a legislative priority for both House and Senate Republican leadership, resulting in companion bills SEA 1 and HEA 1002.

SEA 1 is the bill that includes protections for local governments. It provides civil tort immunity from lawsuits arising from COVID-19, including claims alleging someone contracted COVID-19 on the premises of facilities or offices owned by local governments or in the normal course of doing business with local governments.

This bill ensures that local governments will not incur needless liability for providing essential services during the pandemic and will ward off the potential of frivolous COVID-19 related lawsuits against cities and towns.

- Provides civil tort immunity for damages arising from COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Defines "COVID-19 protective product" and provides civil tort immunity for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Prohibits class action suits.

## **SEA 28, PL 66: TAX SALES**

Author: Niemeyer

Sponsor: Slager

- Prohibits a person who is delinquent in the payment of personal property taxes or is subject to an existing personal property tax judgment from bidding on or purchasing a tract at a tax sale.
- Prohibits a business entity from bidding on or purchasing a tract at a tax sale when a person who is prohibited from bidding on or purchasing a tract at a tax sale:
  - (1) formed the business entity;
  - (2) joined with another person or party to form the business entity;
  - (3) joined the business entity as a proprietor, incorporator, partner, shareholder, director, employee, or member;
  - (4) becomes an agent, employee, or board member of the business entity; or
  - (5) is not an attorney at law and represents the business entity in a legal matter.
- Requires a person to acknowledge that providing false information relating to a prohibited bid or purchase is perjury.
- Creates a new section of code with revised requirements for the forfeiture of a tax sale purchase by an ineligible bidder.
- Requires a county treasurer, except for in a county containing a consolidated city, to pay all taxes and assessments that accrue on the tract of real estate through the time the record owner is divested of title from the tax sale surplus fund for the tract.
- Permits a county legislative body to adopt an ordinance prohibiting the assignment of a certificate of sale prior to the issuance of a tax title deed.
- Adds requirements that must be met within 150 days of the date a court grants a petition to issue a tax deed before a county auditor can issue or record a tax deed.

#### **SEA 55, P.L. 136 -2021: SCHOOL REFERENDA**

Author: Bohacek

Sponsor: Teshka

- Provides that an examination of the accounts and financial affairs of a school corporation must include an examination of any revenue spending plan and applicable fund for an operating referendum tax levy or school safety referendum tax levy to determine whether the school corporation is using the revenue collected from the levy in the amounts and for the purposes established in the applicable revenue spending plan.
- Provides that a contract entered into between the governing body of a school corporation and a school administrator may not provide for the awarding of a monetary bonus or other incentive that is based on the approval of a public question concerning the imposition of a property tax levy.
- Specifies requirements for a school corporation that adopts a revenue spending plan for a proposed referendum tax levy.
- Provides that a school corporation shall specify in its proposed budget the school corporation's revenue spending plan and present the revenue spending plan at its public hearing on the proposed budget.
- Provides that an ordinance or resolution making a preliminary determination to issue bonds or enter into leases that is considered for certain controlled projects must include a statement of:
  - (1) the maximum annual debt service for the controlled project for each year in which the debt service will be paid; and
  - (2) the schedule of the estimated annual tax levy and rate over a 10 year period; factoring in changes that will occur to the debt service levy and tax rate during the period on account of any outstanding bonds or lease obligations that will mature or terminate during the period.
- Provides that a governing body may not increase the debt service fund levy to pay for the interest on warrants unless the warrants have been authorized by the governing body in a resolution adopted at a public meeting in the year immediately preceding the year in which the warrants will be issued.
- Requires a school corporation that imposes certain property taxes to provide information to

the department of local government finance before a public hearing held for the purpose of determining the school corporation's budget.

### **SEA 94, PL 92: PENSION MATTERS**

Author: Boots

Sponsor: Thompson

- Provides that the Indiana public retirement system (INPRS) shall pay the governors' retirement and surviving spouse pensions from the public employees' retirement fund (PERF). (Current law makes the auditor of state responsible for the payments.)
- Modifies provisions related to the pension entitlement for the surviving spouse of a governor.
- Changes the definition of "retired participant" in the retirement medical benefits account statute.
- Eliminates the requirement that INPRS shall make an actuarial valuation of the assets and liabilities of the retiree health benefit trust fund at least every two years and instead requires INPRS each year to report the assets and liabilities of the retiree health benefit trust fund and make recommendations for employer contribution amounts.
- Provides that if an individual becomes a participant in the public employees' defined contribution plan with respect to the individual's service as a volunteer firefighter, the individual does not earn creditable service in the fund for service with a volunteer fire department.
- Provides that interest shall be credited to the account of each participant in the prosecuting attorneys' retirement fund at least annually.
- Specifies the repayment conditions that apply if a participant of the judges' retirement system or a fund member of the 1977 police officers' and firefighters' pension and disability fund withdraws from the respective fund and again becomes a participant or member of the respective fund at a later date.
- For purposes of the PERF and state teachers' retirement fund:
  - (1) adds survivors and beneficiaries to provisions related to recouping, stopping, or terminating benefits;
  - (2) provides that if an overpayment occurs, the board may not require a member, survivor, or beneficiary to pay more than 25% of their monthly benefit toward the overpayment; and
  - (3) provides that if an overpayment began before July 1, 2015 and was caused by no fault of the member, survivor, or beneficiary, the board may only require a member, survivor, or beneficiary to pay the amount of the overpayment of benefits received during the six years before the date INPRS discovers the overpayment and attempts to provide notice of the overpayment.
- Provides that the budget agency may transfer appropriations from federal or dedicated funds to the retiree health benefit trust fund.
- (The introduced version of this bill was prepared by the interim study committee on pension management oversight.)

### **SEA 214, P.L.74-2021: LOW INCOME HOUSING**

Author: Holdman

Sponsor: Leonard

- Reinstates provisions that were repealed in the 2016 session in Senate Bill 309 regarding eligibility for the property tax exemption for improvements on real property that are constructed, rehabilitated, or acquired for the purpose of providing low income housing.
- Provides that payments in lieu of taxes (PILOTS) may be required from a property owner claiming such an exemption.

### **SEA 232, PL 143: EXPOSURE RISK DISEASES**

Author: Jon Ford

Sponsor: Judy

### **Aim Comments:**

SEA 232 adds SARS variants, including the one that causes COVID-19, to the list of exposure risk diseases in state law which triggers a presumption that a public safety officer who dies or becomes disabled from an exposure risk disease incurred the disease in the line of duty. This provision is retroactive to January 1, 2020, so the families of any public safety officers who died of COVID-19 are presumed eligible to receive line of duty death benefits.

If an employee is diagnosed after June 30, 2021, with a health condition caused by any variant of SARS that leads to a disability or death, the employee is required to provide legal verification that he/she was not exposed to someone else with SARS outside the scope of employment in order to keep the presumption that the death or disability was incurred in the line of duty. The presumption also does not apply when a vaccine or other preventative measure against the exposure risk disease is available but not received.

- Adds any variant of severe acute respiratory syndrome (SARS), including coronavirus disease (COVID-19), to the list of diseases considered an exposure risk disease for purposes of emergency and public safety employee death and disability presumed in the line of duty.
- Provides, for any employee who is diagnosed after June 30, 2021, with a health condition caused by any variant of SARS, including COVID-19, that if the health condition results in disability or death and the employee wishes to have a presumption of disability or death incurred in the line of duty apply to the employee, the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee's current employment, been exposed to another individual known to have any variant of SARS, including COVID-19.
- Makes technical corrections.

### **SEA 304, PL 149: INDEMNITY AGREEMENTS IN PUBLIC WORKS CONTRACTS**

Author: Messmer

Sponsor: Torr

- Provides that a statute that invalidates indemnity agreements in construction contracts relating to providing certain professional services is applicable to such contracts relating to public works projects.
- Provides that a specified chapter does not apply to:
  - (1) projects covered by INDOT's contractor qualification statute; or
  - (2) a project that is the construction, improvement, alteration, repair, or maintenance of a highway, street, or road.
- Provides that a BOT agreement may provide for the transfer of a public facility to a governmental body by means of a lease or an installment contract.
- Defines certain terms.

### **SEA 332, PL 152: PUBLICATION OF NOTICE BY POLITICAL SUBDIVISIONS**

Author: Buck

Sponsor: Miller

### **Aim Comments:**

SEA 332 gives political subdivisions an option to publish certain public notices on their website instead of in the newspaper.

When a political subdivision is required by statute to publish a notice two or more times, under SEA 332, the political subdivision may now publish the second and subsequent notices on their official website after the first notice is published in the required newspaper(s). There are a handful of notices that must be printed more than once including the sale of bonds, receiving of bids, and the establishment of a cumulative or sinking fund.

An official website is defined as the Internet location designated by a political subdivision as its primary source of information about the political subdivision on the Internet. Proof of publication of notices is still required and must be furnished upon request for online postings.

Aim supported this legislation as a step forward in modernizing how public notices are published. We will continue to work with stakeholders on this issue in future sessions.

- Allows a political subdivision, when required by statute to publish a notice two or more times, to make the first publication of notice in a newspaper and any subsequent publications of the notice on the official web site of the political subdivision.
- Requires the political subdivision or contractor that maintains the political subdivision's official web site to provide proof of publication of the notice on the official web site.
- Provides that if, with regard to a sheriff's sale of real property to execute a judgment, the sheriff is not able to procure publication of the notice in a newspaper of general circulation within the county, the sheriff may publish the notice on the Internet web site of each county where the real estate is located (instead of dispensing with the publication of notice entirely).

### **SEA 336, PL 153: BUSINESS PERSONAL PROPERTY TAX EXEMPTION**

Author: Freeman

Sponsor: Speedy

#### **Aim Comments:**

SEA 336 increases the business personal property tax exemption to \$80,000 (from \$40,000), allowing more businesses to be exempt from the tax, increasing tax rates on other properties, and increasing circuit breaker losses to local units.

The increase in the exemption causes about a \$7.9 million statewide hit to local governments. You can see the county-by-county estimated revenue losses [here](#).

Although this change is not great news for local governments, the originally introduced version contained far more significant language that eliminated the depreciation floor on new business personal property. The full fiscal impact of this is hard to estimate, but the worst-case scenario could be up to a total net assessed value loss of about \$15.5 billion, causing a revenue loss of about \$175 million to local governments when fully implemented. This estimate assumes that all older business personal property would eventually be replaced with new property, so the total amount is likely to be less, but it still demonstrates the potential magnitude of loss to the tax base. This language was removed in the first half of session in committee, but several fiscal leaders have indicated an interest in going down this road in the future.

Looking at the big picture, there is significant opposition to the BPPT in whole, along with a continued "chipping away" at the tax without an identified state revenue replacement plan. We will continue discussions with lawmakers and other stakeholders about why this is so problematic.

- Increases, from \$40,000 to \$80,000, the acquisition cost threshold for the business personal property tax exemption.
- Makes a technical correction.

### **SEA 348, PL 154: WASTEWATER TASK FORCE**

Author: Koch

Sponsor: Soliday

### Aim Comments:

SEA 348 creates an 18-member task force to examine statewide wastewater issues including consolidation, acquisition, and lifecycle management. The task force is also charged with developing a long-term plan to address wastewater needs in Indiana.

Two topics added to the list of items to study include an evaluation of “combined billing” to allow a utility company to allocate a portion of the costs of providing wastewater services to the company’s water customers, and a consideration of the appropriateness of and circumstances for allowing municipally owned utilities to sell water or wastewater services outside of their corporate boundaries.

The membership of this task force will include twelve legislators and six others appointed by the Governor. The Governor’s appointments must include one member specifically representing municipalities served by a wastewater operator that is not under the jurisdiction of the IURC.

This bill was also amended to create a water infrastructure grant program administered by the Indiana Finance Authority, a compliment to the \$60M provided in the budget for new water infrastructure grants.

- Establishes the task force on wastewater infrastructure investment and service to underserved areas (task force).
- Provides that the task force consists of the following 18 members:
  - (1) Six members of the senate, with the president pro tempore appointing four members (one of whom serves as co-chair of the task force), and the minority leader appointing two members.
  - (2) Six members of the house of representatives, with the speaker appointing four members (one of whom serves as co-chair of the task force), and the minority leader appointing two members.
  - (3) Six gubernatorial appointees, including the following:
    - (A) One officer or employee of the state.
    - (B) One member representing operators of wastewater management systems.
    - (C) One engineer, or another professional, with expertise in wastewater management systems.
    - (D) One member representing ratepayers.
    - (E) One member representing municipalities served by a wastewater operator not under the jurisdiction of the utility regulatory commission.
    - (F) One member of the general public.
- Sets forth the duties of the task force.
- Requires the task force to develop a long term plan for addressing wastewater needs in Indiana.
- Requires the task force to issue a report setting forth its recommendations to:
  - (1) the executive director of the legislative services agency for distribution to members of the general assembly; and
  - (2) the governor; not later than December 1, 2021.
- Provides that the bill’s provisions concerning the task force expire January 1, 2022.
- Establishes the water infrastructure grant program (program) to be administered by the Indiana finance authority (authority).
- Establishes the water infrastructure grant fund (fund) as a source of money for grants, loans, and other financial assistance to, or for the benefit of, participants in the program.
- Sets forth purposes for which money in the fund may be used, including the planning, designing, acquisition, construction, renovation, improvement, or expansion of:
  - (1) water systems; and
  - (2) wastewater or storm water collection and treatment systems.
- Requires the authority to adopt guidelines to establish criteria for the making of grants, loans, and other financial assistance from the fund.

- Sets forth certain conditions that apply to the making of grants, the making of loans, and the providing of other financial assistance from the fund.
- Requires the authority to establish a project prioritization system for the purposes of awarding loans and grants from the fund.
- Sets forth certain variables that the project prioritization system must include.
- Provides that the authority may provide advisory services and other services to a participant in connection with a grant, a loan, or other financial assistance from the fund.
- Requires the public finance director to submit to the budget committee and the legislative council, in each odd-numbered year through 2023, a report concerning grants, loans, or other financial assistance made available to participants from the fund.

### **SEA 349, PL 120: FINANCING, TRANSFER, AND IMPROVEMENT OF UTILITY ASSETS**

Author: Koch

Sponsor: Soliday

- Requires that the priority ranking system used by the Indiana finance authority in making loans or other financial assistance from:
  - (1) the drinking water revolving loan fund; or
  - (2) the wastewater revolving loan fund; must prioritize loans securing longer term benefits over shorter term projects, all other factors being equal.
- Provides that not later than 60 days after the effective date of a change in the applicable federal or state income tax rate as a result of new legislation, a water or wastewater utility shall petition the utility regulatory commission (IURC) for a water or wastewater utility surcharge that adjusts the water or wastewater utility's rates and charges to provide recovery for the change in the federal or state income tax rate.
- Provides that a water or wastewater utility that serves fewer than 8,000 customers may, but is not required to, file a petition for such a surcharge.
- Provides that a surcharge shall be calculated to reflect the difference between:
  - (1) the amount of federal or state income taxes that each existing rate or charge of the water or wastewater utility was designed to recover based on the income tax rate in effect at the time the rate or charge was approved; and
  - (2) the amount of federal or state income taxes that would have been embedded in the given rate or charge had the new tax rate been in effect at the time of approval.
- Provides that a surcharge shall not include normalization of a water or wastewater utility's accumulated deferred income taxes.
- Provides that the IURC shall approve a proposed surcharge if the IURC finds that:
  - (1) the surcharge has been calculated correctly; and
  - (2) the water or wastewater utility's proposal is just and reasonable.
- Provides that an approved surcharge shall operate on a prospective basis.
- Amends the applicability language of the statute governing the transfer, acquisition, and improvement of utilities by municipalities to specify that the statute applies to a municipally owned electric, water, wastewater, or combined water and wastewater utility.

### **SEA 352, PL 121: BROADBAND DEVELOPMENT**

Author: Koch

Sponsor: Manning

#### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 359, and SEA 377.

SEA 352 requires the Office of Community and Rural Affairs (OCRA) to establish a new “challenge” process that is specific to the initial letters of intent stage, where prospective applicants write a letter of intent identifying all addresses and census blocks they intend to include in the grant application. Under SEA 352, the address data for the properties that will be served by the proposed project must be publicly posted, and other broadband providers can challenge a listed address or census block as an area that is already served with speeds of at least 25/3. This is designed to prevent overbuilding or allowing certain projects to be subsidized with grant dollars when other providers made the investment to serve the area without assistance.

- Requires the office of community and rural affairs (office) to establish a process to be used before each formal submission of applications for grants from the rural broadband fund (fund) in which the office will:
  - (1) invite any prospective grant applicant to submit a letter of intent identifying all addresses and census blocks that the applicant intends to include in a grant application; and
  - (2) make all addresses and census blocks submitted in letters of intent publicly available for a period of time, during which eligible broadband service providers will have the opportunity to challenge a listed address or census block.
- Provides that challenges under the new process are to be based on the asserted deployment of “minimum broadband Internet” (defined as a terrestrial connection to the Internet that provides an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) at a specific address.
- Specifies that the process established is to precede and remain distinct from the statutory procedures for actual grant applications.
- Provides that the department of transportation (INDOT) may require a private entity to agree, as a condition of INDOT leasing a right-of-way to the private entity, that facilities constructed or installed by the private entity in or under the right-of-way, which if removed would:
  - (1) cause irreparable soil disturbance; or
  - (2) have a detrimental effect on INDOT’s facilities or on the facilities of other utilities; will be considered abandoned without additional consideration, upon the private entity’s written notice to INDOT.
- Provides that upon being abandoned, a facility may no longer be used for any purpose by any public or private entity.

### **SEA 359, PL 156: BROADBAND PROJECTS**

Author: Baldwin

Sponsor: Manning

- Requires the Indiana department of transportation (INDOT) to create a broadband corridor program (dig once program) to manage the location, installation, and maintenance of communications infrastructure that is used for the provision of broadband services and is located within the rights-of-way of limited access highways.
- Requires INDOT to adopt policies, procedures, and standards under the dig once program for required installation of fiber conduit by a public or private entity that performs an excavation within a limited access highway right-of-way.

### **SEA 377, PL 158: BROADBAND DEVELOPMENT**

Author: Zay

Sponsor: Soliday

#### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA

1001, HEA 1449, SEA 352, and SEA 359.

SEA 377 allows OCRA to create new broadband coverage maps that have address level specificity. This is in response to the FCC maps which typically consider an area of the state served by broadband if at least one home in the census block has broadband access, a standard that has been overestimating coverage for years.

Like HEA 1449, it also contains language establishing the Indiana Broadband Connectivity Program.

- Establishes the Indiana broadband connectivity program (program) for the purpose of expanding availability of broadband Internet connectivity throughout Indiana.
- Provides that as part of the program, the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
- Provides that a broadband Internet provider may:
  - (1) register with the program;
  - (2) receive, at least every three months, listings of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
  - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
  - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
- Provides that in evaluating any bids received under the program, the office shall select the provider whose bid presents the lowest cost to the state.
- Provides that a grant awarded to a provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000, regardless of the number of addresses served by the line extension.
  - (2) A per-passing amount that exceeds the state's cost per passing for all rural broadband grants awarded from the fund as of the last day of the immediately preceding state fiscal year.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the program.
- Provides that the office may maintain a geographic information system (GIS) or similar data base that contains spatial data regarding the availability of broadband Internet service in Indiana.
- Provides that the office may evaluate the broadband Internet coverage map created by the Federal Communications Commission under the Broadband Deployment Accuracy and Technological Availability Act (FCC map) and:
  - (1) if the office finds that the FCC map:
    - (A) provides address level broadband Internet coverage information; or
    - (B) provides a greater level of detail than the office's broadband Internet coverage map; use the FCC map to update the office's broadband Internet coverage map; or
  - (2) if the office finds that the FCC map does not:
    - (A) provide address level broadband Internet coverage information; or
    - (B) provide a greater level of detail than the office's broadband Internet coverage map; report that finding to the interim study committee on energy, utilities, and telecommunications during the 2022 legislative interim.

### **SEA 381, PL 122: INNKEEPER'S TAX**

Author: Buchanan

Sponsor: Tim Brown

- Changes the distribution of part of the tax revenue in the Tippecanoe County innkeeper's tax fund (fund) so that 10% of the revenue in the fund is distributed to the department of natural resources for the development of projects in the state park and 20% of the revenue in the fund is distributed as determined by the county fiscal body.
- Provides that the Daviess County innkeeper's tax rate may not exceed 9%.
- Provides that all or part of the revenue received from imposition of the innkeeper's tax in Boone County may, subject to authorization by the county fiscal body, be pledged towards payment of obligations issued or entered into by a political subdivision in the county to finance the construction, acquisition, enlargement, and equipping of a sports and recreation facility.
- Provides for collection procedures of a county innkeeper's tax by the department of state revenue if a county fiscal body adopts an ordinance making a change concerning the imposition of the innkeeper's tax.

### **SEA 383, PL 159: VARIOUS TAX MATTERS**

Author: Holdman

Sponsor: Tim Brown

- Requires a corporation with gross income of more than \$1,000,000 to file its corporate income tax return in an electronic manner specified by the department of state revenue (department).
- Provides a sales tax exemption for a utility scale battery energy storage system.
- Provides a sales tax exemption for public safety equipment and materials.
- Provides certain procedures for reporting federal partnership audit adjustments for purposes of the state adjusted gross income tax and financial institutions tax in order to conform with changes in federal law.
- Provides that the department may prescribe procedures:
  - (1) by which a pass through entity remits tax;
  - (2) for persons or entities that are otherwise subject to withholding but that may have circumstances such that standard tax computation may result in excess withholding;
  - (3) for individuals and trusts that are residents for part of the taxable year and nonresidents for part of the taxable year; and
  - (4) by which an entity may request alternative withholding arrangements.
- Requires the daily pari-mutuel breakage on wagers to be paid to the department, instead of the auditor of state, for deposit in the appropriate breed development fund.
- Requires a utility provider to maintain records sufficient to document each one to one meter change.
- Allows a person to request that the department reissue an exemption certificate with a new meter number in the event of a one to one meter change.
- Removes duplicate provisions regarding electronic filing requirements for sales tax and withholding tax remittance.
- Removes certain unnecessary information currently required for employer withholding tax reporting forms.
- Specifies that the penalty provisions in current law for failure to make a payment by electronic funds transfer also apply to a failure to make a payment by any other electronic means.
- Clarifies that an individual's estimated income tax filing and payment requirements include local income taxes.
- Clarifies the penalty calculation for failure to make estimated tax payments, including estimated utility receipts tax and financial institutions tax payments.
- Provides that a taxpayer may elect to claim a tax credit against the taxpayer's Indiana adjusted gross income tax liability for the amount of tax that is imposed in a foreign country but not due from the taxpayer under the laws of that foreign country until a tax year after the tax year in which the income subject to the foreign country's tax is included in the taxpayer's

Indiana adjusted gross income (provides for retroactive application to tax years beginning after December 31, 2016).

- Sets a floor on the periodic change in the gasoline tax and the special fuel tax rates each year of not less than the rates in the preceding year.
- Provides that the fee to register a trailer that is registered under the International Registration Plan (IRP) shall be prorated based on the Indiana mileage percentage of the registrant's trucks and tractors registered under the IRP.
- Allows the department to release the name and business address of a person that is issued a retail merchant's certificate for the purpose of reporting the status of the person's certificate.
- Provides that the provision in current law requiring an out-of-state merchant to collect sales tax on retail transactions made in Indiana if certain threshold conditions are met extends to the following:
  - (1) The waste tire management fee.
  - (2) The fireworks public safety fee.
  - (3) The prepaid wireless service charge.
- Provides that a township trustee casts the deciding vote to break a tie vote in the township board, except for a tie vote on increasing the township trustee's compensation.
- Makes a clarifying change to redevelopment tax credit provisions.
- Delays the expiration of provisions providing that a local income tax council for a county with a single voting bloc must vote as a whole in order to exercise its authority to increase (but not decrease) a local income tax rate in the county.

### **SEA 384, PL 79: PROFESSIONAL SPORTS AND CONVENTION DEVELOPMENT AREAS**

Author: Holdman

Sponsor: Heine

- Increases the maximum amount of covered taxes that may be captured in the Allen County PSCDA from \$3,000,000 to \$5,000,000.
- Provides for distribution of the covered taxes in the Allen County PSCDA as follows:
  - (1) The first \$2,600,000 to the Allen County War Memorial Coliseum.
  - (2) The next \$400,000 to the Allen County-Fort Wayne capital improvement board (board) for the Grand Wayne Center.
  - (3) The remaining amount to the board to be split evenly between the Allen County War Memorial Coliseum and the Grand Wayne Center.
- Specifies the termination date of the Allen County PSCDA.
- Provides that the Evansville PSCDA (which is currently expired) is renewed beginning after June 30, 2021, for an additional 20 years, including the addition of the downtown convention center hotel to the Evansville PSCDA.
- Provides that the South Bend PSCDA (which is currently expired) is renewed beginning after June 30, 2021, for an additional 20 years, including the addition of three downtown hotels, the Howard Park event center, and facilities located at the Indiana University South Bend campus to the South Bend PSCDA.
- Provides that the maximum amount of covered taxes that may be captured in the renewed South Bend PSCDA is \$2,000,000 per year.
- Revises the expiration date for the PSCDA chapter.

### **SEA 385, PL 11: ADDITIONAL PROFESSIONAL SPORTS DEVELOPMENT AREA**

Author: Sandlin

Sponsor: Speedy

- Provides that an additional professional sports development area in Marion County must be established before July 1, 2024 (instead of July 1, 2022).
- Provides that taxes may not be collected in the additional professional sports development area until after the earlier of:
  - (1) certain conditions having been met; or

(2) June 30, 2023 (instead of June 30, 2021).

### **SEA 396, PL 103: 1977 PENSION AND DISABILITY FUND**

Author: Boots

Sponsor: Frye

#### **Aim Comments:**

SEA 396 sought to address two issues. The first was that not all communities throughout the state were calculating their contribution levels to the 1977 Fund the same way due to ambiguity in the statutory definitions. SEA 396 standardizes the way the rates are calculated, which could cause increases or decreases to the rates each individual community will need to pay, depending on how that community is currently making the calculation.

The second issue was the existence of “synthetic positions.” These were officer classes that existed in the salary matrix for the purposes of calculating pension contributions but were not occupied by any actual officers. While such existing synthetic positions were grandfathered into the bill, any new attempts to do so will be curtailed by annual reporting requirements to the system board, designed to prevent this from happening going forward.

- Amends the definition of “salary of a first class patrolman or first class firefighter” for the purpose of benefits paid from and contributions made to the 1977 police officers’ and firefighters’ pension and disability fund (fund).
- Establishes certain requirements if an employer certifies a new salary under IC 36-8-8-6.5.
- Changes the maximum age for an applicant to a police department from 35 to 39 years of age.
- Requires an employer that participates in the fund and provides longevity increases to pay an amount greater than or equal to the longevity increase paid in the previous year.
- Requires employers to provide reports or records requested by the system board, and permits the system board to fine the employer for each day that reports or records are late.
- Provides that an alleged failure of an employer to make required payments to the 1977 fund may be examined by the state board of accounts or by the Indiana public retirement system.
- Requires employers to submit, both annually and at the request of the system board, the salary of a first class patrolman or firefighter.

### **SEA 409, PL 162: TOWNSHIP MATTERS**

Author: Niemeyer

Sponsor: Slager

- Makes changes to the information required in the township’s annual report.
- Requires the township trustee to annually certify and note on the township budget submitted to the department of local government finance’s computer gateway that the township’s uniform written standards for township assistance have been filed with the board of county commissioners.
- Allows a township trustee to be appointed as a director of a county building authority.
- Provides that a township is not required to publish the portion of its annual abstract of receipts and expenditures that provides statements of:
  - (1) receipts, showing their source; and
  - (2) expenditures, showing the combined gross payment, according to classification of expense, to each person.
- Provides that the abstract must state that a complete abstract containing the statements described in (1) and (2) is filed with and available for public inspection in the county auditor’s office.
- Aligns the township trustee’s maintenance duties regarding township cemeteries with the township trustee’s maintenance duties as to other cemeteries maintained by the township.

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2021

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## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
- \$60M toward the Next Level Trails program.
- \$500M to the Regional Economic Acceleration & Development Initiative (READI), led by the Indiana Economic Development Corporation (IEDC).

There was some discussion this session about eliminating the requirement for individuals to obtain a permit in order to carry a handgun, allowing Indiana to become a “permitless carry” or “constitutional carry” state. Instead of eliminating the requirement to obtain a permit, a compromise was made to only eliminate the fee associated with obtaining a permit. This causes a loss of fee revenue to local law enforcement agencies, estimated to be about \$7 million statewide, thus the \$7 million appropriation for local law enforcement training grants through the Indiana Criminal Justice Institute.

The body cameras grant program will require a local match – 50% for cities and towns with a population of 10,000 or more, or 25% for cities and towns with a population of under 10,000. This will be administered by the Indiana State Police.

For more information on the broadband funding, see [OCRA's website](#) and the bill summaries for HEA 1449, SEA 352, SEA 359, and SEA 377. New guidelines are expected by July 1, 2021.

Another major provision worth highlighting is the creation of the READI Program, a similar concept to the original Regional Cities Initiative and funded at \$500 million. Regions are eligible to receive up to \$50 million each to fund projects and initiatives that attract talent and drive economic growth. Neighboring cities, towns, and counties and its coordinating organization (which may be a regional development authority, or a nonprofit organization formed as a partnership between regional stakeholder entities) have until July 1, 2021, to inform the IEDC of their intent to seek funding as a region, with the opportunity to receive planning grants of up to \$50,000. All program information can be found on the IEDC's website [here](#).

The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
  - o If a unit is opted into the state settlement, they waive all other claims against the opioid providers and no future claims may be brought.
  - o 30% of the settlement funds will go to the agency settlement fund.
    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
- Provides that the regular technical session statute does not apply in calendar year 2021.
- Specifies the deadlines for signing enrolled acts and presenting them to the governor for bills passed after April 19, 2021, and before May 1, 2021.
- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
  - (2) That for 2021, the prohibited period concerning fundraising activities is through April 29, 2021, rather than the date on which the general assembly adjourns sine die.
  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)
- Provides provisions for opioid litigation and settlements, including opt out provisions for political subdivisions.
- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
- Establishes the Pokagon Band Tribal-state compact fund and specifies the purposes for the fund.
- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

## **HEA 1002, PL 166 CIVIL IMMUNITY RELATED TO COVID-19**

Author: Torr

Sponsor: Messmer

- Protects health care providers from professional discipline for certain acts or omissions arising from a disaster emergency unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a health care provider is not protected from professional discipline for actions that are outside the skills, education, and training of the health care provider, unless certain circumstances apply.
- Specifies that orders and recommendations issued by local, state, and federal government agencies and officials during a state disaster emergency do not create new causes of action or new legal duties.
- Specifies that the orders and recommendations are presumed irrelevant to the issue of the existence of a duty or breach of a duty.
- Prohibits filing a class action lawsuit against a defendant in a civil action allowed by the statute.
- Specifies that a governmental entity or employee is not liable if a loss results from an act or omission arising from COVID-19 unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a person is not liable to a claimant for loss, damage, injury, or death arising from COVID-19 unless the claimant proves that the person caused the loss, damage, injury, or death by an act or omission constituting gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides immunity from civil liability to certain persons, entities, and facilities providing health

care and other services for certain acts or omissions related to the provision of health care services and other services during a state disaster emergency.

- Extends COVID-19 health care immunity during periods of disaster emergency after February 29, 2020, and before April 1, 2022.
- Resolves conflicts between SEA 1 and HEA 1002.

### **HEA 1006, PL 12: LAW ENFORCEMENT OFFICERS**

Author: Steuerwald

Sponsor: Mike Young

- Requires the Indiana law enforcement training board to establish mandatory training in de-escalation as part of the use-of-force curriculum, and requires de-escalation training to be provided as a part of:
  - (1) pre-basic training;
  - (2) mandatory inservice training; and
  - (3) the executive training program.
- Establishes a procedure to allow the Indiana law enforcement training board to decertify an officer who has committed misconduct.
- Defines “chokehold” and prohibits the use of a chokehold under certain circumstances.
- Specifies that a law enforcement officer who turns off a body worn camera with the intent to conceal a criminal act commits a Class A misdemeanor.
- Requires an agency hiring a law enforcement officer to request the officer’s employment record and certain other information from previous employing agencies, requires the previous employing agency to provide certain employment information upon request, and provides immunity for disclosure of the employment records.
- Makes an appropriation to the Indiana law enforcement training academy for making capital improvements.

### **HEA 1032, PL 170: NEWBORN SAFETY DEVICES**

Author: Frye

Sponsor: Houchin

- Provides for placement of a newborn safety device at any facility that is staffed by an emergency medical services provider on a 24 hour per day, seven day per week basis, provided the newborn safety device:
  - (1) is located in an area that is conspicuous and visible to staff; and
  - (2) includes a dual alarm system that is connected to the facility and is tested at least one time per month to ensure the alarm system is in working order.
- Provides for placement of a newborn safety device at any fire department, including a volunteer fire department that:
  - (1) meets the minimum response time established by the county, not to exceed four minutes;
  - (2) is located within one mile of a hospital, police station, or emergency medical services station that meets certain requirements;
  - (3) is equipped with an alert system that, when the newborn safety device is opened, automatically connects to the 911 system and transmits a request for immediate dispatch of an emergency medical services provider to the location of the newborn safety device and is tested at least one time per month to ensure the alert system is in working order; and
  - (4) is equipped with an independent video surveillance system that allows at least two members of a fire department to monitor inside the newborn safety device at all times.
- Provides that a person who in good faith voluntarily leaves a child in a newborn safety device located at such a facility or fire station is not obligated to disclose the parent’s name or the person’s name.
- Makes conforming amendments.

## **HEA 1033, PL 28: RESIDENCY OF POLICE OFFICERS AND FIREFIGHTERS**

Author: Frye

Sponsor: Sandlin

### **Aim Comments:**

HEA 1033 removes the existing residency requirements for city police officers and firefighters who under current law must reside within a contiguous county or within 50 miles of the city in which they work. It adds that members of city police and fire departments must 1) have adequate means of transportation into the jurisdiction served by the member's department; and 2) maintain telephone service to communicate with the department.

This does not impact the current ability of cities with a population of less than 7,500 from adopting an ordinance with stricter residency requirements, and it does not apply to towns.

Aim supports the additional hiring flexibility for departments that are having a difficult time recruiting new police officers or firefighters. However, Aim prefers that all communities have the option to enact residency requirements if local circumstances warrant.

- Revises residency requirements for members of police and fire departments to require that members:
  - (1) have adequate means of transportation into the jurisdiction served by the member's department; and
  - (2) maintain telephone service to communicate with the department.

## **HEA 1065, PL 14: FIRE PROTECTION TERRITORIES**

Author: Mayfield

Sponsor: Niemeyer

- Provides that the procedure for adopting an ordinance or resolution to establish a fire protection territory (territory) applies to expanding an existing territory.
- Provides that an ordinance or resolution establishing or expanding a territory must include an agreement as to the disposition of the territory's property when a participating unit withdraws or the territory is dissolved.
- Specifies that with regard to an ordinance or resolution to establish or expand a territory, the unit must hold three separate public hearings to hear public comment regarding the proposed territory before adoption of the ordinance or resolution, with the last public hearing held not later than 10 days before the ordinance or resolution is adopted.
- Establishes residency requirements for members of a joint executive board of a territory.

## **HEA 1068, PL 30: LOCAL OR REGIONAL JUSTICE REINVESTMENT ADVISORY COUNCILS**

Author: Frye

Sponsor: Koch

- Establishes a local or regional justice reinvestment advisory council (local or regional advisory council) in each county in Indiana.
- Provides that the purpose of a local or regional advisory council is to review local or regional criminal justice systems, policies, and procedures.
- Provides that the justice reinvestment advisory council shall assist local or regional advisory councils with promoting:
  - (1) the use of evidence based practices; and
  - (2) certain best practices of community based alternatives and recidivism reduction programs.
- Sets forth duties of local or regional advisory councils.

## **HEA 1072, PL 12: PERSONAL DELIVERY DEVICES**

Author: Sullivan

Sponsor: Garten

### **Aim Comments:**

HEA 1072 creates a statewide framework for the operation of personal delivery devices, or delivery robots, on sidewalks and roads throughout the state. Personal delivery devices may not operate on the state highway system but are authorized to operate on any sidewalk, crosswalk, road, or street of any county or municipality in Indiana.

The legislation does preempt a local government's authority to regulate:

1. The design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance of a personal delivery device; or
2. The types of property that may be transported by a personal delivery device.

Personal delivery devices must satisfy several statutory requirements that are intended to protect the safety of the public. However, there are several other items that Aim would have liked to see addressed in this legislation, including indemnification language to protect local units against liability for damage or injury caused by the devices, and to clarify that local units can set the routes on local roads and sidewalks that the devices must follow when making deliveries. Unfortunately, these provisions were not added to HEA 1072.

Aim will continue to work with stakeholders as these devices start to be deployed in Indiana communities.

- Provides that a personal delivery device may operate in Indiana under certain circumstances, but may not operate on portions of any state route, U.S. route, or interstate highway comprising the state highway system located in a municipality.
- Requires a personal delivery device operator to maintain certain levels of insurance coverage.
- Provides that a personal delivery device is exempt from motor vehicle licensing and registration requirements.
- Provides that a political subdivision may participate in the regulation of personal delivery devices.
- Provides that local governments shall not be required to make or pay for infrastructure improvements for the purpose of better accommodating personal delivery devices.
- Provides that a political subdivision may not enact or enforce an ordinance or resolution relating to:
  - (1) the design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance of a personal delivery device; or
  - (2) the types of property that may be transported by a personal delivery device.

## **HEA 1082, P.L.16-2021: HIGH TECH CRIMES UNIT PROGRAM**

Author: Steuerwald

Sponsor: Mike Young

- Establishes the high tech crimes unit fund for the purpose of establishing up to 10 high tech crimes units that collectively represent the north, south, east, west, and central geographic areas of Indiana to enhance the ability of prosecuting attorneys to investigate, collect evidence, and prosecute high tech crimes.

## **HEA 1097, PL 124: CRIMINAL PENALTIES**

Author: Abbott

Sponsor: Glick

- Provides that a person who uses a vehicle to commit the offense of resisting law enforcement or interfering with public safety, and has a prior conviction for either offense that involved the

use of a vehicle, commits a Level 5 felony.

### **HEA 1115, PL 174: INTERFERING WITH PUBLIC SAFETY**

Author: Miller

Sponsor: Rogers

- Provides that a person who enters a marked off area after having been denied entry by a firefighter commits interfering with public safety. (Under current law, the offense is committed only if the person is denied entry by an emergency medical services provider or a law enforcement officer.)
- Increases the penalty for obstruction of traffic under certain circumstances.

### **HEA 1118, PL 126: MOBILE INTEGRATED HEALTHCARE PROGRAMS AND SAFETY PLANS**

Author: Schaibley

Sponsor: Baldwin

- Specifies that an individualized mental health safety plan includes information concerning a patient's physical health.
- Allows a mobile integrated healthcare program or a mental health community paramedicine program to provide certain services to help facilitate the patient's safe transition back into the community upon disclosure of a patient's individualized mental health safety plan.
- Allows a representative of a mobile integrated healthcare program or a representative of a mental health community paramedicine program to request a patient's individualized mental health safety plan from a psychiatric crisis center, psychiatric inpatient unit, or psychiatric residential treatment provider if certain conditions are met.

### **HEA 1123, PL 64: LEGISLATIVE OVERSIGHT OF CERTAIN FISCAL AND EMERGENCY MATTERS**

Author: Lehman

Sponsor: Glick

#### **Aim Comments:**

HEA 1123 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 5 and SEA 263). HEA 1123 specifically addresses the scope of the Indiana General Assembly's involvement when there is an emergency declared by the Governor.

With HEA 1123, the General Assembly gives itself a new mechanism to call themselves into an emergency session. Under current law, only the Governor can call a special session.

As the bill made its way through the legislative process, Governor Holcomb and several administration officials publicly opposed the bill, saying it unconstitutionally usurps a power given exclusively to the Governor (to call the General Assembly into a special session) and violates the separation of powers. Governor Holcomb vetoed the bill, but the General Assembly quickly overrode the veto. Shortly thereafter, the Governor filed suit against the General Assembly. A private citizen has also filed suit on behalf of Hoosier taxpayers. At the time of this document's publication, the dispute is unresolved.

Other provisions of HEA 1123 deal with legislative oversight of all federal discretionary funds that are received by the state by creating the economic stimulus fund (ESF), into which all such funds must be deposited. Funds deposited into the ESF when the General Assembly is convened cannot be allotted or spent unless appropriated by the General Assembly (or reviewed by the Budget Committee, if they are not in session).

- Specifies that the bill is severable.
- Provides that the general assembly may convene in an emergency session if the legislative council adopts a resolution making certain findings concerning a state of emergency declared

- by the governor.
- Specifies the maximum length of an emergency session.
- Provides that in an emergency session the general assembly may enact only bills relating to the agenda stated in the legislative council's resolution.
- Provides that the general assembly may adopt concurrent resolutions and each house may adopt simple resolutions during an emergency session.
- Establishes the legislative state of emergency advisory group.
- Creates the economic stimulus fund (ESF) for the deposit of all discretionary funds received by the state.
- Defines "discretionary funds" to mean federal economic stimulus funds received under federal legislation granting the state authority to determine the amounts and manner in which the federal economic stimulus funds may be expended. Provides that discretionary funds deposited into the ESF during a period in which the general assembly is convened in a regular session, an emergency session, or a special session may not be allotted or expended unless appropriated by the general assembly or reviewed by the budget committee.
- Provides that before discretionary funds deposited into the ESF during a period in which the general assembly is not convened in a regular session, an emergency session, or a special session may be allotted to or expended by a state agency or instrumentality, the allotment or expenditure must be reviewed by the budget committee.
- Provides that discretionary funds deposited into the ESF may not be expended, transferred, assigned, or otherwise removed from the ESF by the state board of finance, the budget agency, or any other state agency except as permitted under the provisions of the statute.
- Exempts federal economic stimulus funds obligated or expended before April 29, 2021, from the application of the statute.
- Provides that a violation of the disaster statute (IC 10-14-3) or an order authorized by that statute is a Class B infraction instead of a Class B misdemeanor.

### **HEA 1150, PL 127: OVERWEIGHT DIVISIBLE LOADS**

Author: Prescott

Sponsor: Garten

- Provides that a person who transports a vehicle or combination of vehicles with an overweight divisible load is subject to overweight divisible load permitting.
- Removes certain requirements regarding transportation of commodities.
- Provides that the department of transportation may not issue a permit for an overweight divisible load if the owner or operator of the vehicle has not provided the department of state revenue with full payment for the permit prior to transporting the overweight divisible load.
- Provides that the department of state revenue shall determine the extent of civil penalties for overweight divisible loads under certain conditions.
- Provides that the civil penalty for each permitting violation for transporting overweight divisible loads is not more than \$10,000 for each violation.
- Provides criminal or civil defenses in certain circumstances.
- Permits the department to determine at an administrative hearing whether a civil penalty should be assessed or reduced pursuant to a defense.
- Provides that the department of state revenue may not assess a penalty on a citation for an oversize load after more than one year has passed from the date the person receives the citation.
- Provides that the costs for storage of an abandoned vehicle with a length of at least 30 feet may not exceed \$2,500.
- Makes technical corrections.
- Makes conforming changes.

## **HEA 1190, PL 179: OVERWEIGHT TRUCK PERMITS**

Author: Pressel

Sponsor: Jon Ford

- Removes the list of commodities and the specific weight limitations for certain commodities from the definition of “overweight divisible load”.
- Provides that the Indiana department of transportation (department) may issue an overweight permit for transporting overweight vehicles and loads carrying resources on certain highways in the state highway system.
- Provides that a deviation from an approved route constitutes a violation subject to a civil penalty.
- Provides that not more than 8,500 single trip permits may be issued annually for applicants with a total equivalent single axle load calculation of more than 2.40 equivalent single axle load credit.
- Provides that the trip permit limit and trip weight limit do not include overweight divisible load permits obtained by shippers and carriers that obtained permits before January 1, 2021.
- Provides that the department may temporarily increase the number of overweight divisible load permits issued by order of the commissioner in response to an emergency or changes in market conditions.
- Provides that the department may limit the number of overweight divisible load permits issued to an individual applicant.
- Requires the department to adopt rules due to lack of transportation options for certain resources, supply chain interruptions, or supply dock backlogs.
- Provides that the department shall issue a report to the legislative council and the interim study committee on roads and transportation regarding the fee structure of overweight divisible load permits, and regarding the impact of overweight divisible loads on roads and highways by July 1, 2023.
- Provides that the department shall issue an annual report to the legislative council and the interim study committee on roads and transportation regarding market fluctuation in the number of overweight divisible load permits issued during the previous year.
- Provides that the Indiana state police department shall issue an annual report to the legislative council and the interim study committee on roads and transportation regarding the number of accidents involving applicants permitted for overweight divisible loads.
- Provides that a local authority may grant permits for transporting overweight divisible loads on local streets under the control of the local authority.
- Makes conforming changes.

## **HEA 1199, PL 86: DRIVING PRIVILEGES**

Author: McNamara

Sponsor: Messmer

- Provides that the bureau of motor vehicles (bureau) shall stay a suspension of a person’s driving privileges, and terminate that suspension, upon a showing of proof of future financial responsibility, and provides that an individual whose suspension has been terminated because the individual submitted proof of future financial responsibility is not required to pay a reinstatement fee.
- Requires that the bureau terminate a suspension of a person’s driving privileges if the bureau does not receive proof that financial responsibility is not in effect after 180 days.
- Provides that a suspension may be stayed and then terminated if a person fails to pay the judgment.
- Provides that a warrant may be issued for failing to appear in a traffic violation case if the charge is a misdemeanor or a felony.
- Provides that a person whose support obligation is enforced by the Title IV-D agency may have the obligor’s driving privileges reinstated.
- Provides that the bureau shall place in forbearance license reinstatement fees of individuals

who:

- (1) are nonviolent offenders;
  - (2) have completed a criminal sentence or are serving terms of probation or parole; and
  - (3) are enrolled in job training or maintain consistent employment for at least three years following completion of job training.
- Provides that the bureau shall waive all reinstatement fees and reinstate the driving privileges of an individual who has had reinstatement fees placed in forbearance after the individual maintains consistent employment for at least three years.
  - Provides that the bureau, in collaboration with the department of correction, shall administer programs and activities to facilitate the reinstatement of driving privileges for convicted offenders not later than July 1, 2021.
  - Extends the traffic amnesty program for one year to permit certain persons owing unpaid traffic fines, or who may be required to pay a fee for reinstatement of driving privileges, to obtain a reduction in the amount owed or amount payable.

### **HEA 1201, PL 37: EMERGENCY TRANSPORT OF INJURED OPERATIONAL CANINE**

Author: McNamara

Sponsor: Crider

- Provides that if there is not an individual requiring medical attention or transport, a paramedic, advanced emergency medical technician, or emergency medical technician may use emergency ambulance services to transport an operational canine injured in the line of duty to a veterinary hospital or clinic.
- Specifies the care that may be provided to the operational canine.
- Specifies who is responsible for the transportation and treatment cost of an injured operational canine.
- Provides that a paramedic, advanced emergency medical technician, or emergency medical technician who in the performance of their duties and in good faith renders care or transportation to an injured operational canine is not liable:
  - (1) for any act or omission when rendering the care or transportation; or
  - (2) to the veterinary hospital or clinic for expenses incurred for emergency care provided to the injured operational canine.
- Requires that a written agreement concerning the transport and care of an operational canine must specify what services are covered under the agreement.

### **HEA 1230, PL 105: SAFE HAVEN 911**

Author: Lauer

Sponsor: Holdman

- Provides that due to extenuating circumstances, if a child's parent or a person is unable to give up custody of a child under the procedure set forth in Indiana's safe haven law, the child's parent or the person may request that an emergency medical services provider (provider) take custody of the child by:
  - (1) dialing the 911 emergency call number; and
  - (2) staying with the child until a provider arrives to take custody of the child.
- Provides that the emergency medical dispatch agency or the provider shall inform the child's parent or the person giving up custody of the child of the ability to remain anonymous.
- Provides that a provider, shall, without a court order, take custody of a child who is, or who appears to be, not more than 30 days of age if the child is voluntarily left:
  - (1) in a newborn safety device that is located at an emergency medical services station; or
  - (2) with medical staff after delivery in a hospital or other medical facility when the child's parent notifies the medical staff that the parent is voluntarily relinquishing the child.
- Allows a child's parent to remain anonymous if the child is voluntarily relinquished in a hospital or other medical facility after delivery of the child.
- Provides that an emergency medical services station is immune from civil liability for an act or

omission relating to the operation of the newborn safety device.

### **HEA 1270, PL 187: DEPARTMENT OF HOMELAND SECURITY**

Author: Frye

Sponsor: Crider

- Amends the administrative orders and procedures act to allow for an initial notice of determination to be served by electronic mail or any other method approved by the Indiana Rules of Trial Procedure. (Under current law, the initial notice of determination may be served only by United States mail or personal service.)
- Repeals provisions concerning the division of planning and assessment, division of preparedness and training, division of emergency response and recovery, and division of fire and building safety (divisions).
- Assigns all duties of the divisions to the executive director of the department of homeland security (department) or the department generally.
- Establishes a fire chief executive training program (executive training program).
- Provides that after January 1, 2022, a newly appointed fire chief of a political subdivision must successfully complete the executive training program within one year of appointment.
- Provides that a volunteer fire chief is not required to complete the executive training program.
- Provides that the department of homeland security may allow any of the following individuals to enroll in the executive training program if there is available space in the course:
  - (1) A chief officer.
  - (2) Management level personnel.
  - (3) A volunteer fire chief.
  - (4) A volunteer chief officer.
  - (5) Volunteer management level personnel.
- Provides that an applicable high school shall comply with all rules of the fire prevention and building safety commission applicable to the primary use of the building.
- Provides that schools with one or more employees shall create an emergency operations plan regarding unplanned fire alarm activations.

### **HEA 1285, PL 111: BUREAU OF MOTOR VEHICLES**

Author: Lindauer

Sponsor: Garten

- Provides that the bureau of motor vehicles (bureau) shall remit certain taxes not more than 21 days after the collection of the tax.
- Provides that in the first year an amended surtax or wheel tax rate is effective, the prior surtax or wheel tax rate (as applicable) for the previous calendar year applies to vehicle registrations.
- Provides that the definition of "credential" includes any form of documentation in physical form or digital form accessible on a mobile device issued by the bureau.
- Changes the definition of a motor driven cycle to the current definition of a Class B motor driven cycle.
- Provides that the bureau of motor vehicles commission is protected by the Indiana Tort Claims Act.
- Expands the types of transactions that the bureau may perform on election day with priority given to credential related transactions.
- Provides that the bureau may no longer collect fees associated with Riverlink tolls. (Current law provides for the bureau to accept payments for Riverlink tolls.)
- Provides that temporary license plates may be displayed in the rear window of a vehicle, rather than affixed to the rear of the vehicle.
- Removes the requirement that the bureau report to law enforcement if a license plate or other proof of registration is lost.
- Provides that temporary delivery permits may be displayed on a vehicle in a manner determined by the bureau.

- Provides that a person who becomes an Indiana resident and owns a watercraft must register the watercraft not later than 60 days after becoming an Indiana resident.
- Provides that a person who fails to register a watercraft within the 60 days after becoming an Indiana resident is subject to an administrative penalty of \$15 and commits a Class C infraction.
- Provides that a motor driven cycle may not be operated unless the vehicle is registered as a motor driven cycle.
- Provides that a holder of a learner's permit may operate a motor driven cycle.
- Provides that the bureau may charge a fee of \$25 for expediting certain credentials.
- Provides that the bureau shall suspend driving privileges or invalidate the learner's permit of an individual who is at least 15 years of age and less than 18 years of age in certain situations.
- Replaces the term "operator's license" with the term "driver's license".
- Requires that an individual who has completed driver rehabilitation training hold a learner's permit.
- Provides that an individual who has signed the application of a minor applicant for a permit or driver's license may subsequently file with the bureau, and be granted, a verified written request that the permit or driver's license expire.
- Allows the bureau to renew a learner's permit, rather than issuing a new learner's permit.
- Allows an individual to renew a learner's permit online.
- Provides that the bureau may approve third parties to conduct skills exams.
- Removes the provision allowing a licensed driver or an applicant for an initial or renewal driver's license, permit, or endorsement to appeal an action taken by the bureau to revoke or modify the person's driving privileges for medical reasons to the circuit or superior court of the county where the licensed driver or applicant resides prior to exhausting an administrative appeal.
- Requires individuals to complete driver's safety programs in certain instances.
- Requires the bureau to implement suspensions for an individual who fails to attend and complete required programs.
- Allows the bureau to contract with physicians to increase the number of reviewers for medical case files to support and provide recommendations on the revocation of a license for an individual with underlying health conditions.
- Removes the requirement for special groups to obtain 500 signatures when reapplying for the special group recognition license plate every 10 years.
- Decreases the number of days a new resident under 18 years of age is required to hold an out-of-state license to 60 days. (Current law requires that a new resident under 18 years of age hold an out-of-state license for 180 days.)
- Provides that courts must submit the probable cause affidavit in a form and manner prescribed by the bureau.
- Provides that the bureau shall not place any indication on certain credentials issued by the bureau of the vaccination status of an individual.
- Provides that the bureau shall not request information regarding the individual's vaccination status or proof of immunity when an individual applies for a credential.
- Provides that the bureau shall not maintain a data base regarding an individual's vaccination status or proof of immunity.
- Provides that the bureau shall not connect any bureau data base with any data base that tracks an individual's vaccination status or proof of immunity.
- Repeals the requirement to request a certificate of compliance for proof of financial responsibility if a motor vehicle accident occurred at least five years prior to the date the bureau receives the copy of the accident report.
- Provides that the bureau may enter into an agreement with the office of administrative law proceedings to conduct reviews on the bureau's behalf.
- Makes conforming changes.

## **HEA 1356, PL 114: PERMANENT TRAILER REGISTRATION**

Author: Wesco

Sponsor: Doriot

- Defines “permanent registration” for purposes of motor vehicles.
- Provides that the owner of a trailer that weighs 3,000 pounds or less may apply to the bureau of motor vehicles (bureau) for a permanent registration for a fee of \$82.
- Requires the owner of a trailer that applies to the bureau for a permanent registration to pay twice the amount of the surtax otherwise due when the owner obtains a permanent registration.
- Provides that the owner of a trailer that obtains a permanent registration is not subject to additional surtax payments.

## **HEA 1383, PL 115: JUDICIAL OFFICERS**

Author: Cook

Sponsor: Mike Young

- Provides that a person commits battery on a public safety official if the offense is committed against a retired judicial officer while the retired judicial officer is serving as a judge, and allows a retired judicial officer to carry a handgun in the same manner as a judicial officer while the retired judicial officer is serving as a judge.
- Adds current and former probation officers and community corrections officers to the list of persons whose residential addresses may not be disclosed on a public property database website operated by a unit.

## **HEA 1420, PL 41: AGRICULTURAL EMERGENCY PROCEDURES**

Author: Lehe

Sponsor: Leising

- Amends the powers of the board of animal health (board) to allow cooperation with animal owners and law enforcement to plan for, prepare for, respond to, and recover from all hazard emergencies in Indiana.
- Allows the board to delegate the duty to adopt emergency rules to the state veterinarian.
- Amends the board’s emergency powers to take certain actions if an emergency event has occurred or a disease or pest in animal products presents a health hazard.
- Allows the board to issue emergency orders.
- Allows the board to facilitate the prompt disposal of animals in an emergency event.
- Provides that an animal may be buried on the owner’s premises according to standards approved by the board.
- Allows the board to adopt rules restricting animal disposal methods in order to control disease and pests in animals and chemical or radiological substances.
- Allows the state egg board to adopt emergency rules when there is a declared emergency or sudden disruption that affects the commerce of eggs.
- Allows for service of notice in administrative hearings.
- Amends the authorization to use electrocution under the criminal statutes concerning offenses against animals.

## **HEA 1466, PL 42: PERFORMANCE BONDING OF DEVELOPERS**

Author: Pressel

Sponsor: Doriot

### **Aim Comments:**

HEA 1466 requires (rather than allows) a local unit to grant a secondary plat approval if the applicant provides either a performance bond for the completion of certain items or written evidence of a contract with a utility for the installation or extension of utilities.

Under current law, the unit has discretion to decide whether to approve the secondary plat with proof

of the performance bond or utility contract for all required infrastructure, sidewalks, and landscaping, but this will now be mandatory with the required proof of bond or contract. By requiring a municipality to grant the secondary plat if a developer provides a bond or proof of financial responsibility, it limits the options the municipality may utilize in ensuring projects are completed and may change current procedures in certain communities.

- Requires (rather than allows) a local unit to grant a secondary approval to a plat for a subdivision in which improvements and installations have not been completed if the applicant provides:
  - (1) a performance bond or other proof of financial responsibility; or
  - (2) if installation or extension of utility service is involved, proof of contracting with a utility or a political subdivision for the installation or extension.
- Provides that the only condition precedent that a local unit may require to recording a secondary plat is that the land developer obtain a performance bond or other surety for:
  - (1) unfinished streets, sanitary piping, storm water piping systems, water mains, sidewalks and ornamental landscaping located in common areas; and
  - (2) erosion control.
- Provides a definition of “common area”.

### **HEA 1485, PL 209: VOTING MATTERS**

Author: Wesco

Sponsor: Greg Walker

- Defines “breach of peace” and “law enforcement officer” for purposes of election law.
- Includes an identification document issued by a Native American Indian tribe or band for purposes of proof of identification.
- Specifies to whom a watcher must report any violation of election laws.
- Requires the prior consent of an inspector for a watcher to object to any other precinct election officer concerning an alleged violation of election laws and allows for the removal of the watcher and revocation of credentials for a violation.
- Amends the definition of “electioneering” and adds language prohibiting making verbal statements, displaying certain written statements, or the display of support for the approval or defeat of a public question and electioneering before election day in specified locations.
- Makes it criminal trespass for a person to enter or refuse to leave a polling location after having been prohibited entry or asked to leave by an election officer or a law enforcement officer acting on behalf of an election officer.

### **HEA 1558, PL 217: INDIANA CRIME GUNS TASK FORCE**

Author: Steuerwald

Sponsor: Mike Young

- Establishes the Indiana crime guns task force (task force) to address violent crime in Boone, Hamilton, Hancock, Hendricks, Marion, Morgan, Johnson, and Shelby counties by delivering, in cooperation with state and federal officials, a uniform strategy to trace firearms used to commit crimes.
- Establishes an executive board to direct and oversee the task force.
- Requires the Indiana criminal justice institute to establish and administer the task force fund.
- Makes conforming amendments.

### **SEA 1, PL 1: CIVIL IMMUNITY RELATED TO COVID-19**

Author: Messmer

Sponsor: Torr

#### **Aim Comments:**

Providing civil liability protections for businesses, nonprofits, and government entities against COVID-19 related lawsuits was a legislative priority for both House and Senate Republican leadership,

resulting in companion bills SEA 1 and HEA 1002.

SEA 1 is the bill that includes protections for local governments. It provides civil tort immunity from lawsuits arising from COVID-19, including claims alleging someone contracted COVID-19 on the premises of facilities or offices owned by local governments or in the normal course of doing business with local governments.

This bill ensures that local governments will not incur needless liability for providing essential services during the pandemic and will ward off the potential of frivolous COVID-19 related lawsuits against cities and towns.

- Provides civil tort immunity for damages arising from COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Defines “COVID-19 protective product” and provides civil tort immunity for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts).
- Prohibits class action suits.

### **SEA 5, PL 219: LOCAL HEALTH DEPARTMENTS; PUBLIC HEALTH EMERGENCIES**

Author: Garten

Sponsor: Lehman

#### **Aim Comments:**

SEA 5 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 263 and HEA 1123). SEA 5 specifically addresses local health departments and oversight by local elected officials.

With SEA 5, if the Governor declares an emergency under IC 10-14-3, any local order issued by a local board of health that is more stringent than the Governor’s executive orders must be approved by the legislative body. Any local order that addresses an aspect of the emergency that is not addressed in the Governor’s executive orders must likewise be approved by the legislative body.

In counties with a county health department, this will be the county commissioners. For the three city health departments, the order must be approved by the city council and the mayor (or passed over the mayor’s veto by a 2/3rds vote).

SEA 5 also establishes a new appeals process before the local legislative body for individuals to appeal an enforcement action taken against them by a local board of health. With this law, an individual that is subject to a local enforcement action can appeal directly to the legislative body. In counties with a county health department, this will be the county commissioners. For the three city health departments, this will be the city council.

The legislative body can choose whether to hear or deny an appeal. If the legislative body agrees to hear an appeal, SEA 5 sets out a framework of procedures that must be followed. This appeals process is only in place when there is a disaster emergency declared by the Governor under IC 10-14-3 or a declared local public health emergency.

There are also other provisions in this bill dealing with the appointment and removal of county health officers.

Governor Holcomb vetoed SEA 5, but the General Assembly reconvened on May 10 and voted 59-30 in the House and 36-10 in the Senate to override his veto. Thus, SEA 5 became effective on May 10, 2021.

- Provides that if a local order addresses an aspect of a declared emergency addressed by an executive order, the local order may be less stringent than the executive order to the extent permitted by the executive order.
- Provides that if a local order addresses an aspect of a declared emergency that is not addressed by an executive order or if a local order addresses an aspect of a declared emergency more stringently than an executive order, the local order may not take effect, or remain in effect, unless the local order is approved by the county legislative body (in the case of a county health department) or by an ordinance adopted by the city legislative body and approved by the mayor (in the case of a city health department).
- Provides that the appointment of a county health officer is subject to the approval of the county legislative body.
- Adds other good cause to the reasons for which a local health officer may be removed in counties other than Marion County.
- Specifies that a local health officer serves until a successor is appointed and qualified.
- Establishes an appeals process before legislative bodies of enforcement actions taken by local boards of health and local health officers in response to declared state and local public health emergencies.

### **SEA 8, PL 135: TRAFFIC ENFORCEMENT IN RESIDENTIAL COMPLEXES**

Author: Buchanan

Sponsor: Negele

- Reenacts and extends the ability of a unit to enforce moving traffic ordinances on the property of a residential complex under certain circumstances. (This provision expired December 31, 2020.)
- Extends the requirement that the office of judicial administration submit reports to the legislative council relating to the enforcement of moving traffic ordinances on the property of residential complexes.

### **SEA 17, PL 106: CAMPGROUND MATTERS**

Author: Doriot

Sponsor: Speedy

- Allows a campground owner to ask an individual to leave a campground in certain instances.
- Specifies that an individual who remains on or returns to a campground after having been asked to leave the campground commits criminal trespass.
- Provides that a guest who is asked to leave a campground is entitled to a refund of any unused portion of prepaid fees.

### **SEA 63, PL 6: MENTAL HEALTH TREATMENT FOR INMATES**

Author: Glick

Sponsor: Negele

- Permits, under certain circumstances, an offender committed to the department of correction to be held within a treatment facility operated by the department for not more than 14 days beyond the offender's mandatory release date if:
  - (1) the offender consents; or
  - (2) a court has ordered the offender to be committed to a treatment setting outside the department.

### **SEA 77, PL 7: PEER SUPPORT SERVICES AND CISM SERVICES**

Author: Crider

Sponsor: Frye

- Provides, with certain exceptions, that written or oral communications concerning the provision of peer support services and critical incident stress management services (CISM services) to a first responder are confidential and may not be disclosed without the first responder’s consent. (Current law provides that communications concerning CISM services to an emergency responder are confidential.)
- Provides that a first responder’s communication is not confidential and may be disclosed:
  - (1) to prevent the first responder from committing a crime or fraud that the provider of CISM services or peer support services reasonably believes is likely to result in death, substantial bodily harm, or substantial economic injury to another;
  - (2) if it conveys information regarding spousal abuse;
  - (3) if the provider of CISM services or the peer support services was a witness or a party to the incident resulting in the provision of services to the first responder; or
  - (4) if the first responder consents to disclosure.
- Provides that a person providing peer support services is not liable for damages for an act, error, or omission committed by the person in performing peer support services unless the act, error, or omission constitutes wanton, willful, or intentional misconduct.

### **SEA 79, PL 67: PROTECTION ORDERS AND DOMESTIC BATTERY**

Author: Crider

Sponsor: McNamara

- Provides that if a petition for an order for protection is filed by a person or on behalf of an unemancipated minor, the court shall determine, after reviewing the petition or making an inquiry, whether issuing the order for protection may impact a school corporation’s ability to provide in-person instruction for the person or the unemancipated minor.
- Creates a procedure that requires a school corporation to receive notice if the court determines that issuing the order for protection may impact the school corporation’s ability to provide in-person instruction for the person or the unemancipated minor.
- Enhances the penalty for domestic battery to a Level 6 felony if the offense is committed against a family or household member:
  - (1) who has been issued a protection order that protects the family or household member from the person and the protection order was in effect at the time the person committed the offense; or
  - (2) while a no contact order issued by the court directing the person to refrain from having any direct or indirect contact with the family or household member was in effect at the time the person committed the offense.
- Enhances the penalty for domestic battery to a Level 5 felony when the offender has a prior conviction for strangulation against the same family or household member.

### **SEA 81, PL 8: TRAINING FOR INVESTIGATORS OF SEXUAL ASSAULT CASES**

Author: Crider

Sponsor: Olthoff

- Requires certain training for sexual assault investigators.
- Mandates that the law enforcement training board set specialized standards for training and investigating sexual assault cases involving adult victims.

### **SEA 94, PL 92: PENSION MATTERS**

Author: Boots

Sponsor: Thompson

- Provides that the Indiana public retirement system (INPRS) shall pay the governors’ retirement and surviving spouse pensions from the public employees’ retirement fund (PERF). (Current law makes the auditor of state responsible for the payments.)
- Modifies provisions related to the pension entitlement for the surviving spouse of a governor.
- Changes the definition of “retired participant” in the retirement medical benefits account

statute.

- Eliminates the requirement that INPRS shall make an actuarial valuation of the assets and liabilities of the retiree health benefit trust fund at least every two years and instead requires INPRS each year to report the assets and liabilities of the retiree health benefit trust fund and make recommendations for employer contribution amounts.
- Provides that if an individual becomes a participant in the public employees' defined contribution plan with respect to the individual's service as a volunteer firefighter, the individual does not earn creditable service in the fund for service with a volunteer fire department.
- Provides that interest shall be credited to the account of each participant in the prosecuting attorneys' retirement fund at least annually.
- Specifies the repayment conditions that apply if a participant of the judges' retirement system or a fund member of the 1977 police officers' and firefighters' pension and disability fund withdraws from the respective fund and again becomes a participant or member of the respective fund at a later date.
- For purposes of the PERF and state teachers' retirement fund:
  - (1) adds survivors and beneficiaries to provisions related to recouping, stopping, or terminating benefits;
  - (2) provides that if an overpayment occurs, the board may not require a member, survivor, or beneficiary to pay more than 25% of their monthly benefit toward the overpayment; and
  - (3) provides that if an overpayment began before July 1, 2015 and was caused by no fault of the member, survivor, or beneficiary, the board may only require a member, survivor, or beneficiary to pay the amount of the overpayment of benefits received during the six years before the date INPRS discovers the overpayment and attempts to provide notice of the overpayment.
- Provides that the budget agency may transfer appropriations from federal or dedicated funds to the retiree health benefit trust fund.
- (The introduced version of this bill was prepared by the interim study committee on pension management oversight.)

### **SEA 98, PL 47: INTERSTATE COMPACT TRANSPORTATION FUND**

Author: Sandlin

Sponsor: Davis

- Allows a community corrections agency to access funds from the county offender transportation fund to defray the cost of transporting offenders and delinquent children as requested by a court, a probation department, a community corrections agency, or a county sheriff.

### **SEA 167, PL 70: THEFT AND SALE OF CATALYTIC CONVERTERS AND VALUABLE METALS**

Author: Sandlin

Sponsor: John Young

- Provides that the theft of a component part of a motor vehicle, including a catalytic converter, is a Level 6 felony.
- Expands qualifying prior convictions for Level 6 felony theft to include robbery and burglary.
- Provides that a valuable metal dealer who:
  - (1) knowingly or intentionally fails to comply with certain statutes regulating the purchase of a valuable metal; and
  - (2) purchases a stolen valuable metal; commits a Level 6 felony.

### **SEA 177, PL 71: VICTIM'S RIGHTS AND INVESTIGATIONS**

Author: Messmer

Sponsor: Bartels

- Establishes a procedure permitting an immediate family member of a deceased individual to request the superintendent of the state police department to conduct a new investigation into the death of the individual if:

- (1) a local law enforcement agency has determined that the death was not the result of a criminal act by a third party;
- (2) the individual was not under the care of a physician or the victim of medical malpractice; and
- (3) the family member has a reasonable suspicion that the death was the result of a criminal act by a third party.

### **SEA 187, PL 94: PROTECTION OF MONUMENTS, MEMORIALS, AND STATUES**

Author: Koch

Sponsor: Lehman

- Requires the state police department to prioritize the investigation and prosecution of persons who destroy, damage, vandalize, or desecrate a monument, memorial, or statue.
- Requires the state police department to assist political subdivisions in the investigation and prosecution of persons who destroy, damage, vandalize, or desecrate a monument, memorial, or statue.
- Provides that discretionary funding for a political subdivision may not be withheld from a political subdivision in certain circumstances.
- Provides that a state agency may provide discretionary funding to a political subdivision for a respective grant program after considering whether the political subdivision has taken all appropriate enforcement actions to protect public monuments, memorials, and statues from destruction or vandalism.
- Defines “discretionary funding”.
- Adds enhanced penalties to the crime of rioting.

### **SEA 201, PL 49: OPERATING WHILE INTOXICATED**

Author: Mike Young

Sponsor: John Young

- Provides a defense to prosecution for a person who operates a vehicle with marijuana or its metabolite in the person’s blood under certain conditions.

### **SEA 218, PL 75: TOWNSHIP HOMELESS ASSISTANCE**

Author: Sandlin

Sponsor: Pressel

- Establishes the low barrier homeless shelter task force.
- Beginning July 1, 2022:
  - (1) allows a township trustee to place a homeless individual temporarily in a county home or provide temporary township assistance; and
  - (2) requires the township trustees within a county to collaborate and prepare a list of public and private resources available to the homeless population that is distributed and published on the county’s Internet web site, if the county has a web site, not later than March 1 of each year.
- Provides that a person commits the offense of criminal trespass if:
  - (1) the person, who does not have a contractual interest in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is designated by a municipality or county enforcement authority to be an unsafe building or premises; or
  - (2) the person knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be an unsafe building or premises; unless the person has the written permission of the owner, the owner’s agent, an enforcement authority, or a court

- to come onto the property for purposes of performing maintenance, repair, or demolition.
- Provides that an individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor.
- Defines “harasses”.
- Repeals the chapter concerning panhandling.

### **SEA 232, PL 143: EXPOSURE RISK DISEASES**

Author: Jon Ford

Sponsor: Judy

#### **Aim Comments:**

SEA 232 adds SARS variants, including the one that causes COVID-19, to the list of exposure risk diseases in state law which triggers a presumption that a public safety officer who dies or becomes disabled from an exposure risk disease incurred the disease in the line of duty. This provision is retroactive to January 1, 2020, so the families of any public safety officers who died of COVID-19 are presumed eligible to receive line of duty death benefits.

If an employee is diagnosed after June 30, 2021, with a health condition caused by any variant of SARS that leads to a disability or death, the employee is required to provide legal verification that he/she was not exposed to someone else with SARS outside the scope of employment in order to keep the presumption that the death or disability was incurred in the line of duty. The presumption also does not apply when a vaccine or other preventative measure against the exposure risk disease is available but not received.

- Adds any variant of severe acute respiratory syndrome (SARS), including coronavirus disease (COVID-19), to the list of diseases considered an exposure risk disease for purposes of emergency and public safety employee death and disability presumed in the line of duty.
- Provides, for any employee who is diagnosed after June 30, 2021, with a health condition caused by any variant of SARS, including COVID-19, that if the health condition results in disability or death and the employee wishes to have a presumption of disability or death incurred in the line of duty apply to the employee, the employee shall, by written affidavit executed before death, provide verification that the employee has not, outside the scope of the employee’s current employment, been exposed to another individual known to have any variant of SARS, including COVID-19.
- Makes technical corrections.

### **SEA 263, PL 99 RELIGIOUS ACTIVITIES AS ESSENTIAL SERVICES**

Author: Koch

Sponsor: Steuerwald

#### **Aim Comments:**

SEA 263 is one of a series of bills addressing the scope of executive authority in times of declared disaster or public health emergencies (see also SEA 5 and HEA 1123). SEA 263 specifically addresses restrictions on religious organizations and the right to worship during disaster emergencies.

Under SEA 263, the state and political subdivisions are prohibited from restricting the right of people to worship in person during a disaster emergency.

Religious organizations can be required to comply with neutral and generally applicable health, safety, or occupancy requirements, but the state and political subdivisions are prohibited from imposing restrictions on religious organizations that are more restrictive than restrictions on other businesses and organizations providing essential services.

- Prohibits the state and a political subdivision from imposing restrictions on a religious organization that are more restrictive than the restrictions imposed upon other businesses and organizations that provide essential services to the public.
- Permits the state or a political subdivision to require a religious organization to comply with a neutral and generally applicable health, safety, or occupancy requirement to the same extent as other organizations, if the requirement is otherwise allowable under Indiana’s religious freedom law.
- Provides that the state, a political subdivision, or an officer or employee of the state or a political subdivision may not restrict the right of the people to worship or to worship in person during a disaster emergency.

**SEA 396, PL 103: 1977 PENSION AND DISABILITY FUND**

Author: Boots

Sponsor: Frye

**Aim Comments:**

SEA 396 sought to address two issues. The first was that not all communities throughout the state were calculating their contribution levels to the 1977 Fund the same way due to ambiguity in the statutory definitions. SEA 396 standardizes the way the rates are calculated, which could cause increases or decreases to the rates each individual community will need to pay, depending on how that community is currently making the calculation.

The second issue was the existence of “synthetic positions.” These were officer classes that existed in the salary matrix for the purposes of calculating pension contributions but were not occupied by any actual officers. While such existing synthetic positions were grandfathered into the bill, any new attempts to do so will be curtailed by annual reporting requirements to the system board, designed to prevent this from happening going forward.

- Amends the definition of “salary of a first class patrolman or first class firefighter” for the purpose of benefits paid from and contributions made to the 1977 police officers’ and firefighters’ pension and disability fund (fund).
- Establishes certain requirements if an employer certifies a new salary under IC 36-8-8-6.5.
- Changes the maximum age for an applicant to a police department from 35 to 39 years of age.
- Requires an employer that participates in the fund and provides longevity increases to pay an amount greater than or equal to the longevity increase paid in the previous year.
- Requires employers to provide reports or records requested by the system board, and permits the system board to fine the employer for each day that reports or records are late.
- Provides that an alleged failure of an employer to make required payments to the 1977 fund may be examined by the state board of accounts or by the Indiana public retirement system.
- Requires employers to submit, both annually and at the request of the system board, the salary of a first class patrolman or firefighter.

**SEA 400, PL 81: STATEWIDE ELECTRONIC LIEN AND TITLE SYSTEM**

Author: Garten

Sponsor: Pressel

- Requires the bureau of motor vehicles (bureau) to implement a statewide electronic lien and title system (system) to process:
  - (1) vehicle titles;
  - (2) certificate of title data in which a lien is notated; and
  - (3) the notification, maintenance, and release of security interests in vehicles; through electronic means instead of paper documents.
- Provides that the bureau may:
  - (1) contract with one or more qualified vendors to develop and implement a system; or

- (2) develop an interface to provide qualified electronic lien service providers secure access to data to facilitate the creation of a system.
- Sets forth certain requirements that apply if the bureau elects to implement the system through a qualified vendor versus through qualified electronic lien service providers.
- Specifies that a contract entered into between the bureau and:
  - (1) a qualified vendor; or
  - (2) a qualified electronic lien service provider; may not provide for any costs or charges payable by the bureau to the qualified vendor or the qualified electronic lien service provider.
- Sets forth dates by which the bureau must implement and allow or require the use of:
  - (1) a statewide electronic lien system; and
  - (2) a statewide electronic title system.
- Sets forth certain conditions that apply to the use of a statewide electronic lien system implemented by the bureau under these provisions.
- Provides that under certain circumstances, the bureau may not charge state agencies or their agents with certain fees associated with the statewide electronic lien and title system.
- Authorizes the bureau to adopt rules, including emergency rules, to implement these provisions.

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## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
- \$60M toward the Next Level Trails program.
- \$500M to the Regional Economic Acceleration & Development Initiative (READI), led by the Indiana Economic Development Corporation (IEDC).

There was some discussion this session about eliminating the requirement for individuals to obtain a permit in order to carry a handgun, allowing Indiana to become a “permitless carry” or “constitutional carry” state. Instead of eliminating the requirement to obtain a permit, a compromise was made to only eliminate the fee associated with obtaining a permit. This causes a loss of fee revenue to local law enforcement agencies, estimated to be about \$7 million statewide, thus the \$7 million appropriation for local law enforcement training grants through the Indiana Criminal Justice Institute.

The body cameras grant program will require a local match – 50% for cities and towns with a population of 10,000 or more, or 25% for cities and towns with a population of under 10,000. This will be administered by the Indiana State Police.

For more information on the broadband funding, see [OCRA's website](#) and the bill summaries for HEA 1449, SEA 352, SEA 359, and SEA 377. New guidelines are expected by July 1, 2021.

Another major provision worth highlighting is the creation of the READI Program, a similar concept to the original Regional Cities Initiative and funded at \$500 million. Regions are eligible to receive up to \$50 million each to fund projects and initiatives that attract talent and drive economic growth. Neighboring cities, towns, and counties and its coordinating organization (which may be a regional development authority, or a nonprofit organization formed as a partnership between regional stakeholder entities) have until July 1, 2021, to inform the IEDC of their intent to seek funding as a region, with the opportunity to receive planning grants of up to \$50,000. All program information can be found on the IEDC's website [here](#).

The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
  - o If a unit is opted into the state settlement, they waive all other claims against the opioid providers and no future claims may be brought.
  - o 30% of the settlement funds will go to the agency settlement fund.
    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
- Provides that the regular technical session statute does not apply in calendar year 2021.
- Specifies the deadlines for signing enrolled acts and presenting them to the governor for bills passed after April 19, 2021, and before May 1, 2021.
- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
  - (2) That for 2021, the prohibited period concerning fundraising activities is through April 29, 2021, rather than the date on which the general assembly adjourns sine die.
  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)
- Provides provisions for opioid litigation and settlements, including opt out provisions for political subdivisions.
- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
- Establishes the Pokagon Band Tribal-state compact fund and specifies the purposes for the fund.
- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

## **HEA 1072, PL 12: PERSONAL DELIVERY DEVICES**

Author: Sullivan

Sponsor: Garten

### **Aim Comments:**

HEA 1072 creates a statewide framework for the operation of personal delivery devices, or delivery robots, on sidewalks and roads throughout the state. Personal delivery devices may not operate on the state highway system but are authorized to operate on any sidewalk, crosswalk, road, or street of any county or municipality in Indiana.

The legislation does preempt a local government’s authority to regulate:

1. The design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance of a personal delivery device; or
2. The types of property that may be transported by a personal delivery device.

Personal delivery devices must satisfy several statutory requirements that are intended to protect the safety of the public. However, there are several other items that Aim would have liked to see addressed in this legislation, including indemnification language to protect local units against liability for damage or injury caused by the devices, and to clarify that local units can set the routes on local roads and sidewalks that the devices must follow when making deliveries. Unfortunately, these provisions were not added to HEA 1072.

Aim will continue to work with stakeholders as these devices start to be deployed in Indiana

communities.

- Provides that a personal delivery device may operate in Indiana under certain circumstances, but may not operate on portions of any state route, U.S. route, or interstate highway comprising the state highway system located in a municipality.
- Requires a personal delivery device operator to maintain certain levels of insurance coverage.
- Provides that a personal delivery device is exempt from motor vehicle licensing and registration requirements.
- Provides that a political subdivision may participate in the regulation of personal delivery devices.
- Provides that local governments shall not be required to make or pay for infrastructure improvements for the purpose of better accommodating personal delivery devices.
- Provides that a political subdivision may not enact or enforce an ordinance or resolution relating to:
  - (1) the design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance of a personal delivery device; or
  - (2) the types of property that may be transported by a personal delivery device.

### **HEA 1156, PL 35: PROHIBITION ON MICROCHIPPING EMPLOYEES**

Author: Morrison

Sponsor: Jon Ford

- Provides that the definition of an “employer” subject to the prohibition against requiring the implantation of devices includes the state or any individual, partnership, association, limited liability company, corporation, business trust, or other governmental entity or political subdivision that has one or more employees.

### **HEA 1164, PL 177: VARIOUS UTILITY MATTERS**

Author: Manning

Sponsor: Messmer

#### **Aim Comments:**

When HEA 1164 was introduced, it contained a variety of telecom-related provisions, many of which were negotiated with the bill’s author and sponsor, Aim, other local government and utility stakeholders, and the telecommunications industry.

One section of the bill, as introduced, was designed to streamline right of way permitting and fee structures, but it would have had the effect of negatively impacting the ability of local units to properly manage public rights of way. The good news is that this section was completely removed from the bill, and the language did not pass. Aim and other stakeholders have committed to work together over the interim in an effort to find a more balanced way forward.

Unfortunately, the final version of the bill did still contain language putting new limitations on a permit authority’s ability to deny applications for new small cell (5g) poles in residential areas.

Under current law, if a residential neighborhood were designated as a buried utility area prior to May 1, 2017, an application for a new small cell to be installed in the neighborhood would be subject to a local waiver process or zoning procedure, under which the permit authority could deny the placement of a new pole. Under HEA 1164 and effective July 1, 2021, if there is any aboveground infrastructure in the designated area other than light poles and other approved small cell poles, then the permit authority no longer has the ability to deny the placement of new small cell poles under the local waiver process. The oversight is limited to public safety reasons, as it is for small cell poles elsewhere in the community.

Other language was added in this section that changes the notice process when neighborhood associations or homeowners associations request to receive notice of new small cell applications. There is also new, optional “collaboration” language for a permit authority to work with HOAs and neighborhood associations on the preferred location and aesthetics of new poles within the residential neighborhood.

The bill also prohibits permit authorities from imposing maximum height or minimum separation distance requirements on macro cell towers. Any local zoning process still applies, but any ordinances that impose these requirements across the board are not enforceable.

Another section of the bill establishes a calculation for determining nondiscriminatory, just and reasonable pole attachment fees that are being charged to cable operators by municipalities on municipally-owned electric distribution poles and by rural electric cooperatives.

- Exempts a contract for the lease of state property under which no state expenditures are required from provisions:
  - (1) requiring certain disclosures and certifications by a prospective state contractor regarding violations of Indiana telephone solicitation and automated calling statutes;
  - (2) regarding cancellation of public purchasing contracts due to lack of funds;
  - (3) regarding state contractor use of the E-Verify program; and
  - (4) prohibiting state contractor employment of unauthorized aliens.
- Establishes a calculation for determining nondiscriminatory, just, and reasonable rental fees charged by:
  - (1) rural electric cooperatives; and
  - (2) municipalities providing electric service; that own or control electric distribution poles for attachments to those poles by cable operators.
- Sets forth rights and duties of pole owners and attaching entities with respect to:
  - (1) unauthorized pole attachments; and
  - (2) pole attachment transfers and relocations.
- Provides that the Indiana utility regulatory commission (IURC) may not require a communications service provider to:
  - (1) file a tariff; or
  - (2) report to the IURC any information that is:
    - (A) available to the public on the communications service provider’s Internet web site;
    - (B) filed with the FCC; or
    - (C) otherwise available to the public; except as required by the IURC to respond to consumer complaints or information requests from the general assembly.
- Makes the following changes to the statute concerning permits for wireless service providers:
  - (1) Amends the factors that must exist for a permit authority to prohibit the placement of a new utility pole or wireless support structure in connection with the construction, placement, or use of a small cell facility in areas designated strictly for underground or buried utilities.
  - (2) Provides that neighborhood associations, homeowners associations, and homeowners may request to be notified of applications by communications service providers for certain permitted uses of the rights-of-way in those designated areas, in addition to requesting notice of applications for new utility poles or new wireless support structures (as provided under current law).
  - (3) Sets forth a procedure by which a permit authority may elect to collaborate with a neighborhood association or a homeowners association to adopt neighborhood specific guidelines on the preferred location and reasonable aesthetics of new utility poles or new wireless support structures within the neighborhood association’s or homeowners association’s jurisdiction.
  - (4) Provides that a permit authority may not impose:

- (A) a restriction on maximum height of a wireless support structure, subject to certain federal regulations and state laws; or
  - (B) a requirement regarding minimum separation distances between wireless support structures.
- Provides that a tariff filed with the IURC by a communications service provider is effective upon filing.
  - Provides that a communications service provider may access public rights-of-way under the control of a county or municipality to the same extent as a public utility.
  - Provides that a video service provider is not required to provide the IURC with information describing the provider’s programming, including the provider’s channel lineups or channel guides.
  - Exempts a political subdivision’s disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider from certain provisions regarding disposal of property by a political subdivision.
  - Provides an exemption to the public works law for certain work done by the employees of a conservancy district established for the purpose of water or sewage treatment.

### **HEA 1169, PL 134: CYBERSECURITY INCIDENTS**

Author: Karickhoff

Sponsor: Crider

#### **Aim Comments:**

HEA 1169 is designed to establish the Indiana Office of Technology (IOT) as a central clearinghouse for reporting on cybersecurity incidents for all Indiana local governments.

Under HEA 1169, state agencies and political subdivisions are required to report cybersecurity incidents to the Indiana Office of Technology (IOT) within two business days after discovery of an incident. This will allow the IOT to understand and communicate to local governments what threats are hitting their peers and best practices for avoiding them. Political subdivisions also need to provide the IOT with the name and point of contact for cybersecurity incidents before September 1, 2021, and before September 1 of every year thereafter.

The goal is for the IOT, in the long run, to use this repository of information to develop technical assistance to local governments on cybersecurity threat management and remediation. The bill also allows the IOT to develop and share with political subdivisions a list of third-party technology providers that work with the IOT.

The IOT brought this proposal to Aim prior to the legislative session and incorporated feedback from our members and others in the crafting of this bill throughout the process.

- Requires the office of technology to maintain a repository of cybersecurity incidents.
- Provides that a state agency and a political subdivision shall:
  - (1) report any cybersecurity incident to the office without unreasonable delay and not later than two business days after discovery of the cybersecurity incident in a format prescribed by the chief information officer; and
  - (2) provide the office with the name and contact information of any individual who will act as the primary reporter of a cybersecurity incident before September 1, 2021, and before September 1 of every year thereafter.
- Allows the office of technology to assist a state agency with certain issues concerning information technology.
- Provides that if requested by a political subdivision, the office may develop a list of third party technology providers that work with the office.
- Requires a state educational institution to submit a quarterly analysis with certain conditions.

- Makes conforming changes.

## **HEA 1348, PL 191: ASSESSMENT OF UTILITY GRADE SOLAR PROJECTS**

Author: Soliday

Sponsor: Messmer

- Provides that, for assessment dates beginning after December 31, 2021, the land portion of the fixed property of a utility grade solar energy installation facility shall be assessed at an amount that does not exceed the solar land base rate for the region in which the property is located.
- Provides that assessing officials shall follow the normal guidelines and procedures as are applicable under the property tax cap chapter.
- Provides a limited exception for certain utility grade solar energy installation facilities that were assessed on the January 1, 2021, assessment date.
- Requires the department of local government finance (department) to annually determine and release a solar land base rate for each region based on the median true tax value per acre of all land in the region classified under the utility property class codes of the department for the immediately preceding assessment date.

## **HEA 1437, PL 88: ELECTRONIC MEETINGS AND SIGNATURES**

Author: Cook

Sponsor: Rogers

### **Aim Comments:**

HEA 1437 creates a framework for the use of virtual meetings both outside times of emergency and in future times of emergency. It also allows the use of electronic signatures. This was one of Aim's legislative initiatives going into this session and is an important step toward providing greater flexibility for local units of government to conduct meetings.

During times of declared disaster emergencies, the legislation allows public meetings to be fully virtual (no in-person attendance necessary). This puts into state statute what was allowed by the Governor's executive orders during the COVID-19 pandemic.

To utilize virtual meetings when there is not a declared disaster emergency, the governing body must adopt a local policy. The local policy can be more strict than the state law, but not less strict, and there are several state-set guardrails that must be met if the governing body wants to allow its members to participate virtually in meetings. Unlike times of emergency, some in-person attendance is required, so these will be "hybrid" virtual meetings.

Aim has compiled several documents to help you navigate the procedures for holding electronic meetings going forward, including sample resolutions, guidance, practical tips, and a tracking chart. You can access all this information [here](#).

- Allows a member of a governing body of a political subdivision to participate in a meeting electronically subject to the following:
  - (1) Requires the governing body to adopt a written policy establishing procedures for electronic participation.
  - (2) Requires the technology to permit simultaneous communication between members and the public to attend and observe the proceedings.
  - (3) Requires at least 50% of the members to be physically present at the meeting site.
  - (4) Allows a member participating electronically to be counted for quorum purposes.
  - (5) Provides that a member participating electronically may participate in a final action taken by the governing body only if the member can be seen and heard.
- Exempts governing bodies of state agencies that have a majority of members with disabilities

- from certain attendance requirements.
- Provides that if a statute requires a manual signature for attesting or authenticating an obligation issued by certain state and local public entities, an electronic signature has the same force and effect as a manual signature.
- Adds provisions applicable to state and local public agencies when a state or local disaster emergency is declared.
- Makes stylistic changes.

## **HEA 1449, PL 89: BROADBAND DEVELOPMENT**

Author: Soliday

Sponsor: Koch

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, SEA 352, SEA 359, and SEA 377.

As you can see from the bill summary, HEA 1449 contains many complex provisions. Some of the major highlights include: 1) changing the priorities of the existing Next Level Connections Broadband Grants to favor schools, rural health clinics, and students in addition to the current priority of rural areas; 2) updating standards to new FCC guidelines; 3) creating a new program for subsidy payments for broadband service on behalf of individual consumers with priority to schools, rural health clinics, and students; and 4) creating the Indiana Broadband Connectivity Program under which individuals who do not have access to broadband can post their address on a state portal so providers can bid to extend service to unserved addresses and use state grant funding to do so.

- Amends the statute governing the awarding of grants from the rural broadband fund as follows:
  - (1) Provides that an “eligible broadband project” for purposes of the statute includes a project for the deployment of terrestrial broadband infrastructure:
    - (A) to buildings used by public school corporations primarily for educating students;
    - (B) to rural health clinics;
    - (C) to ensure that eligible students (defined as Indiana residents who are less than 23 years of age and who are enrolled in a K-12 school in Indiana) have access points providing a connection to eligible broadband service; and
    - (D) in rural areas in Indiana. (Current law provides that an “eligible broadband project” means only a project for the deployment of broadband infrastructure for the provision of eligible broadband service in rural areas in Indiana.)
  - (2) Specifies that terrestrial broadband infrastructure includes infrastructure used for a fixed wireless Internet connection but does not include infrastructure used for a satellite Internet connection.
  - (3) Provides that “eligible broadband service” means a connection to the Internet that provides an actual speed of at least:
    - (A) 1,000 megabits per second downstream for a project involving the deployment of broadband infrastructure to public school corporation buildings or rural health clinics;
    - or
    - (B) 50 megabits per second downstream and at least five megabits per second upstream for a project to provide to eligible students access points for connections to eligible broadband service, or for a project to provide eligible broadband service to rural areas.
  - (4) Specifies the following priorities for the awarding of grants from the rural broadband fund:
    - (A) First, for extending eligible broadband service to public school corporation buildings with respect to which the only available Internet connections are at actual speeds of

- less than 1,000 megabits per second downstream.
- (B) Second, for extending eligible broadband service to rural health clinics with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
  - (C) Third, for extending eligible broadband service so as to ensure that every eligible student has at the student's residence an access point providing a connection to eligible broadband service.
  - (D) Fourth, extending eligible broadband service to rural areas in which the only available connections to the Internet are at actual speeds of less than 25 megabits per second downstream.
- (5) Provides that a state agency may fund an eligible broadband project that is designated as a lower priority under the funding priorities set forth in the statute if no competitive applications for eligible broadband projects designated as a higher priority are submitted in a particular round of grant funding.
- (6) Specifies that a grant may not be awarded from the rural broadband fund:
- (A) for any project to extend the deployment of eligible broadband service to one or more service addresses for which funding from the federal government has been used or will be disbursed to extend broadband service at actual speeds of at least 25 megabits per second downstream to those same addresses; or
  - (B) if the awarding of the grant would jeopardize funding that has been awarded by the federal government under certain programs for purposes of expanding broadband service in Indiana.
- (7) Provides that the system of priorities used by the office of community and rural affairs (office) for awarding grants from the rural broadband fund must give preference to projects that require a lower contribution from the fund per passing, as determined by a specified calculation.
- (8) Provides that the procedures established by the office for the awarding of grants from the rural broadband fund must require the office to:
- (A) include, in publishing grant applications to the office's Internet web site, specific addresses for which state funds would be used to provide eligible broadband service; and
  - (B) consider, in making a determination as to whether to award a grant to an applicant, all comments or objections received during the statutory comment period, including any new grant application that:
    - i. is submitted within the statutory comment period by another eligible broadband service provider; and
    - ii. indicates that such other provider would be willing to provide eligible broadband service to the same addresses at a lower cost to the state.
- (9) Requires the office to establish a program to expand broadband Internet connectivity by:
- (A) entering into agreements with broadband service providers under which such providers agree to accept subsidy payments distributed by the office as a form of payment for eligible broadband service; and
  - (B) distributing subsidy payments to participating providers to be used as a form of payment for eligible broadband service provided before July 1, 2025, to certain persons and entities, prioritized as follows:
    - i. School buildings.
    - ii. Rural health clinics.
    - iii. Eligible students.
- (10) Provides that money in the rural broadband fund may be used to provide financial assistance under the new program.
- (A) Requires the office to establish and publish on the office's Internet web site:
    - i. Specific, measurable goals; and
    - ii. Metrics to be used in assessing the progress made toward accomplishing those

goals; for the disbursement of state broadband grant funds.

(11) Requires the office to report annually to the interim study committee on energy, utilities, and telecommunications (rather than to the general assembly, under current law) concerning the awarding of state broadband grants.

(12) Requires the state board of accounts to conduct an annual audit (rather than an audit every three years, under current law) of the awarding of state broadband grants.

- Establishes the Indiana broadband connectivity program (connectivity program), under which the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
- Provides that the public broadband portal must solicit information as to whether one or more eligible students reside at an address that is reported by an individual through the portal.
- Provides that the office may contract or consult with one or more third parties in the creation or administration of the portal.
- Provides that a broadband Internet provider may:
  - (1) register with the connectivity program;
  - (2) receive, at least every three months, notice of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
  - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
  - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
- Provides that if the office does not receive notice from any providers that minimum broadband Internet is available at an address reported through the public broadband portal, the office shall transmit to each registered provider a bid notification for provision of broadband Internet service at the address.
- Specifies requirements for a provider's submission of a bid under the program.
- Provides that in evaluating the bids received, the office shall select the provider whose bid presents the lowest cost to the state for extension of the provider's broadband Internet infrastructure to the address.
- Provides that the amount of a grant awarded to a registered provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000.
  - (2) A per-passing amount that exceeds the state's cost per passing for all grants awarded from the rural broadband fund for rural broadband grants as of the last day of the immediately preceding state fiscal year, as calculated by the office.
- Requires the office to enter into an agreement with a provider that is awarded a grant under the program.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the connectivity program.

## **HEA 1576, PL 44: TRANSPORTATION ASSET MANAGEMENT PLANS**

Author: Teshka

Sponsor: Doriot

- Requires the department of transportation (department) post asset management plans approved by the department to an Internet web site maintained by the department or by an entity contracted by the department to approve asset management plans not later than July 1, 2022.

## **SEA 68, PL 107: CONSERVANCY DISTRICT BOARD MEETINGS**

Author: Donato

Sponsor: Jordan

- Amends the open door law to allow members of a conservancy district board of directors to attend meetings electronically.

## **SEA 352, PL 121: BROADBAND DEVELOPMENT**

Author: Koch

Sponsor: Manning

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 359, and SEA 377.

SEA 352 requires the Office of Community and Rural Affairs (OCRA) to establish a new “challenge” process that is specific to the initial letters of intent stage, where prospective applicants write a letter of intent identifying all addresses and census blocks they intend to include in the grant application. Under SEA 352, the address data for the properties that will be served by the proposed project must be publicly posted, and other broadband providers can challenge a listed address or census block as an area that is already served with speeds of at least 25/3. This is designed to prevent overbuilding or allowing certain projects to be subsidized with grant dollars when other providers made the investment to serve the area without assistance.

- Requires the office of community and rural affairs (office) to establish a process to be used before each formal submission of applications for grants from the rural broadband fund (fund) in which the office will:
  - (1) invite any prospective grant applicant to submit a letter of intent identifying all addresses and census blocks that the applicant intends to include in a grant application; and
  - (2) make all addresses and census blocks submitted in letters of intent publicly available for a period of time, during which eligible broadband service providers will have the opportunity to challenge a listed address or census block.
- Provides that challenges under the new process are to be based on the asserted deployment of “minimum broadband Internet” (defined as a terrestrial connection to the Internet that provides an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) at a specific address.
- Specifies that the process established is to precede and remain distinct from the statutory procedures for actual grant applications.
- Provides that the department of transportation (INDOT) may require a private entity to agree, as a condition of INDOT leasing a right-of-way to the private entity, that facilities constructed or installed by the private entity in or under the right-of-way, which if removed would:
  - (1) cause irreparable soil disturbance; or
  - (2) have a detrimental effect on INDOT’s facilities or on the facilities of other utilities; will be considered abandoned without additional consideration, upon the private entity’s written notice to INDOT.
- Provides that upon being abandoned, a facility may no longer be used for any purpose by any public or private entity.

## **SEA 359, PL 156: BROADBAND PROJECTS**

Author: Baldwin

Sponsor: Manning

- Requires the Indiana department of transportation (INDOT) to create a broadband corridor program (dig once program) to manage the location, installation, and maintenance of communications infrastructure that is used for the provision of broadband services and is located within the rights-of-way of limited access highways.
- Requires INDOT to adopt policies, procedures, and standards under the dig once program for required installation of fiber conduit by a public or private entity that performs an excavation within a limited access highway right-of-way.

## **SEA 377, PL 158: BROADBAND DEVELOPMENT**

Author: Zay

Sponsor: Soliday

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 352, and SEA 359.

SEA 377 allows OCRA to create new broadband coverage maps that have address level specificity. This is in response to the FCC maps which typically consider an area of the state served by broadband if at least one home in the census block has broadband access, a standard that has been overestimating coverage for years.

Like HEA 1449, it also contains language establishing the Indiana Broadband Connectivity Program.

- Establishes the Indiana broadband connectivity program (program) for the purpose of expanding availability of broadband Internet connectivity throughout Indiana.
- Provides that as part of the program, the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
- Provides that a broadband Internet provider may:
  - (1) register with the program;
  - (2) receive, at least every three months, listings of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
  - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
  - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
- Provides that in evaluating any bids received under the program, the office shall select the provider whose bid presents the lowest cost to the state.
- Provides that a grant awarded to a provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000, regardless of the number of addresses served by the line extension.
  - (2) A per-passing amount that exceeds the state's cost per passing for all rural broadband grants awarded from the fund as of the last day of the immediately preceding state fiscal year.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the program.

- Provides that the office may maintain a geographic information system (GIS) or similar data base that contains spatial data regarding the availability of broadband Internet service in Indiana.
- Provides that the office may evaluate the broadband Internet coverage map created by the Federal Communications Commission under the Broadband Deployment Accuracy and Technological Availability Act (FCC map) and:
  - (1) if the office finds that the FCC map:
    - (A) provides address level broadband Internet coverage information; or
    - (B) provides a greater level of detail than the office's broadband Internet coverage map; use the FCC map to update the office's broadband Internet coverage map; or
  - (2) if the office finds that the FCC map does not:
    - (A) provide address level broadband Internet coverage information; or
    - (B) provide a greater level of detail than the office's broadband Internet coverage map; report that finding to the interim study committee on energy, utilities, and telecommunications during the 2022 legislative interim.

### **SEA 400, PL 81: STATEWIDE ELECTRONIC LIEN AND TITLE SYSTEM**

Author: Garten

Sponsor: Pressel

- Requires the bureau of motor vehicles (bureau) to implement a statewide electronic lien and title system (system) to process:
  - (1) vehicle titles;
  - (2) certificate of title data in which a lien is notated; and
  - (3) the notification, maintenance, and release of security interests in vehicles; through electronic means instead of paper documents.
- Provides that the bureau may:
  - (1) contract with one or more qualified vendors to develop and implement a system; or
  - (2) develop an interface to provide qualified electronic lien service providers secure access to data to facilitate the creation of a system.
- Sets forth certain requirements that apply if the bureau elects to implement the system through a qualified vendor versus through qualified electronic lien service providers.
- Specifies that a contract entered into between the bureau and:
  - (1) a qualified vendor; or
  - (2) a qualified electronic lien service provider; may not provide for any costs or charges payable by the bureau to the qualified vendor or the qualified electronic lien service provider.
- Sets forth dates by which the bureau must implement and allow or require the use of:
  - (1) a statewide electronic lien system; and
  - (2) a statewide electronic title system.
- Sets forth certain conditions that apply to the use of a statewide electronic lien system implemented by the bureau under these provisions.
- Provides that under certain circumstances, the bureau may not charge state agencies or their agents with certain fees associated with the statewide electronic lien and title system.
- Authorizes the bureau to adopt rules, including emergency rules, to implement these provisions.

**aim**

Accelerate  
Indiana  
Municipalities

2021

**Transportation  
and  
Infrastructure**

## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
- \$60M toward the Next Level Trails program.
- \$500M to the Regional Economic Acceleration & Development Initiative (READI), led by the Indiana Economic Development Corporation (IEDC).

There was some discussion this session about eliminating the requirement for individuals to obtain a permit in order to carry a handgun, allowing Indiana to become a “permitless carry” or “constitutional carry” state. Instead of eliminating the requirement to obtain a permit, a compromise was made to only eliminate the fee associated with obtaining a permit. This causes a loss of fee revenue to local law enforcement agencies, estimated to be about \$7 million statewide, thus the \$7 million appropriation for local law enforcement training grants through the Indiana Criminal Justice Institute.

The body cameras grant program will require a local match – 50% for cities and towns with a population of 10,000 or more, or 25% for cities and towns with a population of under 10,000. This will be administered by the Indiana State Police.

For more information on the broadband funding, see [OCRA's website](#) and the bill summaries for HEA 1449, SEA 352, SEA 359, and SEA 377. New guidelines are expected by July 1, 2021.

Another major provision worth highlighting is the creation of the READI Program, a similar concept to the original Regional Cities Initiative and funded at \$500 million. Regions are eligible to receive up to \$50 million each to fund projects and initiatives that attract talent and drive economic growth. Neighboring cities, towns, and counties and its coordinating organization (which may be a regional development authority, or a nonprofit organization formed as a partnership between regional stakeholder entities) have until July 1, 2021, to inform the IEDC of their intent to seek funding as a region, with the opportunity to receive planning grants of up to \$50,000. All program information can be found on the IEDC's website [here](#).

The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
  - o If a unit is opted into the state settlement, they waive all other claims against the opioid providers and no future claims may be brought.
  - o 30% of the settlement funds will go to the agency settlement fund.
    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
- Provides that the regular technical session statute does not apply in calendar year 2021.
- Specifies the deadlines for signing enrolled acts and presenting them to the governor for bills passed after April 19, 2021, and before May 1, 2021.
- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
  - (2) That for 2021, the prohibited period concerning fundraising activities is through April 29, 2021, rather than the date on which the general assembly adjourns sine die.
  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)
- Provides provisions for opioid litigation and settlements, including opt out provisions for political subdivisions.
- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
- Establishes the Pokagon Band Tribal-state compact fund and specifies the purposes for the fund.
- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

## **HEA 1072, PL 12: PERSONAL DELIVERY DEVICES**

Author: Sullivan

Sponsor: Garten

### **Aim Comments:**

HEA 1072 creates a statewide framework for the operation of personal delivery devices, or delivery robots, on sidewalks and roads throughout the state. Personal delivery devices may not operate on the state highway system but are authorized to operate on any sidewalk, crosswalk, road, or street of any county or municipality in Indiana.

The legislation does preempt a local government’s authority to regulate:

1. The design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance of a personal delivery device; or
2. The types of property that may be transported by a personal delivery device.

Personal delivery devices must satisfy several statutory requirements that are intended to protect the safety of the public. However, there are several other items that Aim would have liked to see addressed in this legislation, including indemnification language to protect local units against liability for damage or injury caused by the devices, and to clarify that local units can set the routes on local roads and sidewalks that the devices must follow when making deliveries. Unfortunately, these provisions were not added to HEA 1072.

Aim will continue to work with stakeholders as these devices start to be deployed in Indiana

communities.

- Provides that a personal delivery device may operate in Indiana under certain circumstances, but may not operate on portions of any state route, U.S. route, or interstate highway comprising the state highway system located in a municipality.
- Requires a personal delivery device operator to maintain certain levels of insurance coverage.
- Provides that a personal delivery device is exempt from motor vehicle licensing and registration requirements.
- Provides that a political subdivision may participate in the regulation of personal delivery devices.
- Provides that local governments shall not be required to make or pay for infrastructure improvements for the purpose of better accommodating personal delivery devices.
- Provides that a political subdivision may not enact or enforce an ordinance or resolution relating to:
  - (1) the design, manufacture, maintenance, certification, licensing, registration, taxation, assessment, or insurance of a personal delivery device; or
  - (2) the types of property that may be transported by a personal delivery device.

### **HEA 1111, PL 18: HIGHWAY EXTENSION AND RESEARCH PROGRAM**

Author: Lindauer

Sponsor: Messmer

- Provides that local officials are required to attend any school or course conducted for local officials within the first two years of their initial term, but may (rather than shall) attend any school or course conducted for local officials after initial attendance.
- Provides that the county fiscal body shall appropriate sufficient funds to pay local officials a per diem for expenses for each day or part of a day the member is in attendance at any school or course conducted for local officials, and mileage at a rate determined by the county fiscal body for each mile traveled to attend the school.

### **HEA 1150, PL 127: OVERWEIGHT DIVISIBLE LOADS**

Author: Prescott

Sponsor: Garten

- Provides that a person who transports a vehicle or combination of vehicles with an overweight divisible load is subject to overweight divisible load permitting.
- Removes certain requirements regarding transportation of commodities.
- Provides that the department of transportation may not issue a permit for an overweight divisible load if the owner or operator of the vehicle has not provided the department of state revenue with full payment for the permit prior to transporting the overweight divisible load.
- Provides that the department of state revenue shall determine the extent of civil penalties for overweight divisible loads under certain conditions.
- Provides that the civil penalty for each permitting violation for transporting overweight divisible loads is not more than \$10,000 for each violation.
- Provides criminal or civil defenses in certain circumstances.
- Permits the department to determine at an administrative hearing whether a civil penalty should be assessed or reduced pursuant to a defense.
- Provides that the department of state revenue may not assess a penalty on a citation for an oversize load after more than one year has passed from the date the person receives the citation.
- Provides that the costs for storage of an abandoned vehicle with a length of at least 30 feet may not exceed \$2,500.
- Makes technical corrections.
- Makes conforming changes.

## HEA 1164, PL 177: VARIOUS UTILITY MATTERS

Author: Manning

Sponsor: Messmer

### **Aim Comments:**

When HEA 1164 was introduced, it contained a variety of telecom-related provisions, many of which were negotiated with the bill's author and sponsor, Aim, other local government and utility stakeholders, and the telecommunications industry.

One section of the bill, as introduced, was designed to streamline right of way permitting and fee structures, but it would have had the effect of negatively impacting the ability of local units to properly manage public rights of way. The good news is that this section was completely removed from the bill, and the language did not pass. Aim and other stakeholders have committed to work together over the interim in an effort to find a more balanced way forward.

Unfortunately, the final version of the bill did still contain language putting new limitations on a permit authority's ability to deny applications for new small cell (5g) poles in residential areas.

Under current law, if a residential neighborhood were designated as a buried utility area prior to May 1, 2017, an application for a new small cell to be installed in the neighborhood would be subject to a local waiver process or zoning procedure, under which the permit authority could deny the placement of a new pole. Under HEA 1164 and effective July 1, 2021, if there is any aboveground infrastructure in the designated area other than light poles and other approved small cell poles, then the permit authority no longer has the ability to deny the placement of new small cell poles under the local waiver process. The oversight is limited to public safety reasons, as it is for small cell poles elsewhere in the community.

Other language was added in this section that changes the notice process when neighborhood associations or homeowners associations request to receive notice of new small cell applications. There is also new, optional "collaboration" language for a permit authority to work with HOAs and neighborhood associations on the preferred location and aesthetics of new poles within the residential neighborhood.

The bill also prohibits permit authorities from imposing maximum height or minimum separation distance requirements on macro cell towers. Any local zoning process still applies, but any ordinances that impose these requirements across the board are not enforceable.

Another section of the bill establishes a calculation for determining nondiscriminatory, just and reasonable pole attachment fees that are being charged to cable operators by municipalities on municipally-owned electric distribution poles and by rural electric cooperatives.

- Exempts a contract for the lease of state property under which no state expenditures are required from provisions:
  - (1) requiring certain disclosures and certifications by a prospective state contractor regarding violations of Indiana telephone solicitation and automated calling statutes;
  - (2) regarding cancellation of public purchasing contracts due to lack of funds;
  - (3) regarding state contractor use of the E-Verify program; and
  - (4) prohibiting state contractor employment of unauthorized aliens.
- Establishes a calculation for determining nondiscriminatory, just, and reasonable rental fees charged by:
  - (1) rural electric cooperatives; and
  - (2) municipalities providing electric service; that own or control electric distribution poles for attachments to those poles by cable operators.

- Sets forth rights and duties of pole owners and attaching entities with respect to:
  - (1) unauthorized pole attachments; and
  - (2) pole attachment transfers and relocations.
- Provides that the Indiana utility regulatory commission (IURC) may not require a communications service provider to:
  - (1) file a tariff; or
  - (2) report to the IURC any information that is:
    - (A) available to the public on the communications service provider’s Internet web site;
    - (B) filed with the FCC; or
    - (C) otherwise available to the public; except as required by the IURC to respond to consumer complaints or information requests from the general assembly.
- Makes the following changes to the statute concerning permits for wireless service providers:
  - (1) Amends the factors that must exist for a permit authority to prohibit the placement of a new utility pole or wireless support structure in connection with the construction, placement, or use of a small cell facility in areas designated strictly for underground or buried utilities.
  - (2) Provides that neighborhood associations, homeowners associations, and homeowners may request to be notified of applications by communications service providers for certain permitted uses of the rights-of-way in those designated areas, in addition to requesting notice of applications for new utility poles or new wireless support structures (as provided under current law).
  - (3) Sets forth a procedure by which a permit authority may elect to collaborate with a neighborhood association or a homeowners association to adopt neighborhood specific guidelines on the preferred location and reasonable aesthetics of new utility poles or new wireless support structures within the neighborhood association’s or homeowners association’s jurisdiction.
  - (4) Provides that a permit authority may not impose:
    - (A) a restriction on maximum height of a wireless support structure, subject to certain federal regulations and state laws; or
    - (B) a requirement regarding minimum separation distances between wireless support structures.
- Provides that a tariff filed with the IURC by a communications service provider is effective upon filing.
- Provides that a communications service provider may access public rights-of-way under the control of a county or municipality to the same extent as a public utility.
- Provides that a video service provider is not required to provide the IURC with information describing the provider’s programming, including the provider’s channel lineups or channel guides.
- Exempts a political subdivision’s disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider from certain provisions regarding disposal of property by a political subdivision.
- Provides an exemption to the public works law for certain work done by the employees of a conservancy district established for the purpose of water or sewage treatment.

## **HEA 1190, PL 179: OVERWEIGHT TRUCK PERMITS**

Author: Pressel

Sponsor: Jon Ford

- Removes the list of commodities and the specific weight limitations for certain commodities from the definition of “overweight divisible load”.
- Provides that the Indiana department of transportation (department) may issue an overweight permit for transporting overweight vehicles and loads carrying resources on certain highways in the state highway system.
- Provides that a deviation from an approved route constitutes a violation subject to a civil

- penalty.
- Provides that not more than 8,500 single trip permits may be issued annually for applicants with a total equivalent single axle load calculation of more than 2.40 equivalent single axle load credit.
- Provides that the trip permit limit and trip weight limit do not include overweight divisible load permits obtained by shippers and carriers that obtained permits before January 1, 2021.
- Provides that the department may temporarily increase the number of overweight divisible load permits issued by order of the commissioner in response to an emergency or changes in market conditions.
- Provides that the department may limit the number of overweight divisible load permits issued to an individual applicant.
- Requires the department to adopt rules due to lack of transportation options for certain resources, supply chain interruptions, or supply dock backlogs.
- Provides that the department shall issue a report to the legislative council and the interim study committee on roads and transportation regarding the fee structure of overweight divisible load permits, and regarding the impact of overweight divisible loads on roads and highways by July 1, 2023.
- Provides that the department shall issue an annual report to the legislative council and the interim study committee on roads and transportation regarding market fluctuation in the number of overweight divisible load permits issued during the previous year.
- Provides that the Indiana state police department shall issue an annual report to the legislative council and the interim study committee on roads and transportation regarding the number of accidents involving applicants permitted for overweight divisible loads.
- Provides that a local authority may grant permits for transporting overweight divisible loads on local streets under the control of the local authority.
- Makes conforming changes.

### **HEA 1199, PL 86: DRIVING PRIVILEGES**

Author: McNamara

Sponsor: Messmer

- Provides that the bureau of motor vehicles (bureau) shall stay a suspension of a person's driving privileges, and terminate that suspension, upon a showing of proof of future financial responsibility, and provides that an individual whose suspension has been terminated because the individual submitted proof of future financial responsibility is not required to pay a reinstatement fee.
- Requires that the bureau terminate a suspension of a person's driving privileges if the bureau does not receive proof that financial responsibility is not in effect after 180 days.
- Provides that a suspension may be stayed and then terminated if a person fails to pay the judgment.
- Provides that a warrant may be issued for failing to appear in a traffic violation case if the charge is a misdemeanor or a felony.
- Provides that a person whose support obligation is enforced by the Title IV-D agency may have the obligor's driving privileges reinstated.
- Provides that the bureau shall place in forbearance license reinstatement fees of individuals who:
  - (1) are nonviolent offenders;
  - (2) have completed a criminal sentence or are serving terms of probation or parole; and
  - (3) are enrolled in job training or maintain consistent employment for at least three years following completion of job training.
- Provides that the bureau shall waive all reinstatement fees and reinstate the driving privileges of an individual who has had reinstatement fees placed in forbearance after the individual maintains consistent employment for at least three years.
- Provides that the bureau, in collaboration with the department of correction, shall administer

programs and activities to facilitate the reinstatement of driving privileges for convicted offenders not later than July 1, 2021.

- Extends the traffic amnesty program for one year to permit certain persons owing unpaid traffic fines, or who may be required to pay a fee for reinstatement of driving privileges, to obtain a reduction in the amount owed or amount payable.

## **HEA 1285, PL 111: BUREAU OF MOTOR VEHICLES**

Author: Lindauer

Sponsor: Garten

- Provides that the bureau of motor vehicles (bureau) shall remit certain taxes not more than 21 days after the collection of the tax.
- Provides that in the first year an amended surtax or wheel tax rate is effective, the prior surtax or wheel tax rate (as applicable) for the previous calendar year applies to vehicle registrations.
- Provides that the definition of "credential" includes any form of documentation in physical form or digital form accessible on a mobile device issued by the bureau.
- Changes the definition of a motor driven cycle to the current definition of a Class B motor driven cycle.
- Provides that the bureau of motor vehicles commission is protected by the Indiana Tort Claims Act.
- Expands the types of transactions that the bureau may perform on election day with priority given to credential related transactions.
- Provides that the bureau may no longer collect fees associated with Riverlink tolls. (Current law provides for the bureau to accept payments for Riverlink tolls.)
- Provides that temporary license plates may be displayed in the rear window of a vehicle, rather than affixed to the rear of the vehicle.
- Removes the requirement that the bureau report to law enforcement if a license plate or other proof of registration is lost.
- Provides that temporary delivery permits may be displayed on a vehicle in a manner determined by the bureau.
- Provides that a person who becomes an Indiana resident and owns a watercraft must register the watercraft not later than 60 days after becoming an Indiana resident.
- Provides that a person who fails to register a watercraft within the 60 days after becoming an Indiana resident is subject to an administrative penalty of \$15 and commits a Class C infraction.
- Provides that a motor driven cycle may not be operated unless the vehicle is registered as a motor driven cycle.
- Provides that a holder of a learner's permit may operate a motor driven cycle.
- Provides that the bureau may charge a fee of \$25 for expediting certain credentials.
- Provides that the bureau shall suspend driving privileges or invalidate the learner's permit of an individual who is at least 15 years of age and less than 18 years of age in certain situations.
- Replaces the term "operator's license" with the term "driver's license".
- Requires that an individual who has completed driver rehabilitation training hold a learner's permit.
- Provides that an individual who has signed the application of a minor applicant for a permit or driver's license may subsequently file with the bureau, and be granted, a verified written request that the permit or driver's license expire.
- Allows the bureau to renew a learner's permit, rather than issuing a new learner's permit.
- Allows an individual to renew a learner's permit online.
- Provides that the bureau may approve third parties to conduct skills exams.
- Removes the provision allowing a licensed driver or an applicant for an initial or renewal driver's license, permit, or endorsement to appeal an action taken by the bureau to revoke or modify the person's driving privileges for medical reasons to the circuit or superior court of the county where the licensed driver or applicant resides prior to exhausting an administrative appeal.
- Requires individuals to complete driver's safety programs in certain instances.

- Requires the bureau to implement suspensions for an individual who fails to attend and complete required programs.
- Allows the bureau to contract with physicians to increase the number of reviewers for medical case files to support and provide recommendations on the revocation of a license for an individual with underlying health conditions.
- Removes the requirement for special groups to obtain 500 signatures when reapplying for the special group recognition license plate every 10 years.
- Decreases the number of days a new resident under 18 years of age is required to hold an out-of-state license to 60 days. (Current law requires that a new resident under 18 years of age hold an out-of-state license for 180 days.)
- Provides that courts must submit the probable cause affidavit in a form and manner prescribed by the bureau.
- Provides that the bureau shall not place any indication on certain credentials issued by the bureau of the vaccination status of an individual.
- Provides that the bureau shall not request information regarding the individual's vaccination status or proof of immunity when an individual applies for a credential.
- Provides that the bureau shall not maintain a data base regarding an individual's vaccination status or proof of immunity.
- Provides that the bureau shall not connect any bureau data base with any data base that tracks an individual's vaccination status or proof of immunity.
- Repeals the requirement to request a certificate of compliance for proof of financial responsibility if a motor vehicle accident occurred at least five years prior to the date the bureau receives the copy of the accident report.
- Provides that the bureau may enter into an agreement with the office of administrative law proceedings to conduct reviews on the bureau's behalf.
- Makes conforming changes.

### **HEA 1356, PL 114: PERMANENT TRAILER REGISTRATION**

Author: Wesco

Sponsor: Doriot

- Defines "permanent registration" for purposes of motor vehicles.
- Provides that the owner of a trailer that weighs 3,000 pounds or less may apply to the bureau of motor vehicles (bureau) for a permanent registration for a fee of \$82.
- Requires the owner of a trailer that applies to the bureau for a permanent registration to pay twice the amount of the surtax otherwise due when the owner obtains a permanent registration.
- Provides that the owner of a trailer that obtains a permanent registration is not subject to additional surtax payments.

### **HEA 1466, PL 42: PERFORMANCE BONDING OF DEVELOPERS**

Author: Pressel

Sponsor: Doriot

#### **Aim Comments:**

HEA 1466 requires (rather than allows) a local unit to grant a secondary plat approval if the applicant provides either a performance bond for the completion of certain items or written evidence of a contract with a utility for the installation or extension of utilities.

Under current law, the unit has discretion to decide whether to approve the secondary plat with proof of the performance bond or utility contract for all required infrastructure, sidewalks, and landscaping, but this will now be mandatory with the required proof of bond or contract. By requiring a municipality to grant the secondary plat if a developer provides a bond or proof of financial responsibility, it limits the options the municipality may utilize in ensuring projects are completed and may change current procedures in certain communities.

- Requires (rather than allows) a local unit to grant a secondary approval to a plat for a subdivision in which improvements and installations have not been completed if the applicant provides:
  - (1) a performance bond or other proof of financial responsibility; or
  - (2) if installation or extension of utility service is involved, proof of contracting with a utility or a political subdivision for the installation or extension.
- Provides that the only condition precedent that a local unit may require to recording a secondary plat is that the land developer obtain a performance bond or other surety for:
  - (1) unfinished streets, sanitary piping, storm water piping systems, water mains, sidewalks and ornamental landscaping located in common areas; and
  - (2) erosion control.
- Provides a definition of “common area”.

### **HEA 1576, PL 44: TRANSPORTATION ASSET MANAGEMENT PLANS**

Author: Teshka

Sponsor: Doriot

- Requires the department of transportation (department) post asset management plans approved by the department to an Internet web site maintained by the department or by an entity contracted by the department to approve asset management plans not later than July 1, 2022.

### **SEA 359, PL 156: BROADBAND PROJECTS**

Author: Baldwin

Sponsor: Manning

- Requires the Indiana department of transportation (INDOT) to create a broadband corridor program (dig once program) to manage the location, installation, and maintenance of communications infrastructure that is used for the provision of broadband services and is located within the rights-of-way of limited access highways.
- Requires INDOT to adopt policies, procedures, and standards under the dig once program for required installation of fiber conduit by a public or private entity that performs an excavation within a limited access highway right-of-way.

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# 2021

## **Utilities**

## HEA 1001, PL 165: STATE BUDGET

Author: Tim Brown

Sponsor: Mishler

### **Aim Comments:**

Driven by robust revenue due to a strong economic recovery from the pandemic (resulting in higher than anticipated revenue projections) and funding from the American Rescue Plan Act, there were significant fiscal gains in the budget, especially to education. The final budget also contains multiple appropriations of interest to cities and towns including:

- \$7M in local law enforcement training grants to offset the loss of revenue from making handgun permits free.
- \$10M for local matching grants for new body cameras.
- \$250M for broadband programming, to be administered by the Office of Community and Rural Affairs (OCRA).
- \$100M to a new State Water Infrastructure Fund (SWIF) for wastewater, drinking water and stormwater grants and \$60M into new Transportation and Water Infrastructure Grants, both of which will run through the Indiana Finance Authority.
- \$60M toward the Next Level Trails program.
- \$500M to the Regional Economic Acceleration & Development Initiative (READI), led by the Indiana Economic Development Corporation (IEDC).

There was some discussion this session about eliminating the requirement for individuals to obtain a permit in order to carry a handgun, allowing Indiana to become a “permitless carry” or “constitutional carry” state. Instead of eliminating the requirement to obtain a permit, a compromise was made to only eliminate the fee associated with obtaining a permit. This causes a loss of fee revenue to local law enforcement agencies, estimated to be about \$7 million statewide, thus the \$7 million appropriation for local law enforcement training grants through the Indiana Criminal Justice Institute.

The body cameras grant program will require a local match – 50% for cities and towns with a population of 10,000 or more, or 25% for cities and towns with a population of under 10,000. This will be administered by the Indiana State Police.

For more information on the broadband funding, see [OCRA's website](#) and the bill summaries for HEA 1449, SEA 352, SEA 359, and SEA 377. New guidelines are expected by July 1, 2021.

Another major provision worth highlighting is the creation of the READI Program, a similar concept to the original Regional Cities Initiative and funded at \$500 million. Regions are eligible to receive up to \$50 million each to fund projects and initiatives that attract talent and drive economic growth. Neighboring cities, towns, and counties and its coordinating organization (which may be a regional development authority, or a nonprofit organization formed as a partnership between regional stakeholder entities) have until July 1, 2021, to inform the IEDC of their intent to seek funding as a region, with the opportunity to receive planning grants of up to \$50,000. All program information can be found on the IEDC's website [here](#).

The budget also contains a wide variety of other provisions that aren't necessarily tied to appropriations. Some of these provisions include language that:

- Opts all local governments into any opioid litigation by the attorney general approved by March 1, 2021, unless they had filed their own claim by January 1, 2021, and opt out of the state settlement plan by June 30, 2021.
  - o If a unit is opted into the state settlement, they waive all other claims against the opioid providers and no future claims may be brought.
  - o 30% of the settlement funds will go to the agency settlement fund.
    - 15% to municipalities and counties

- 15% to the state
  - 70% of the settlement funds will go to opioid treatment, education, and prevention programs.
    - 50% to the state
    - 50% to local governments on a regional basis
      - FSSA will determine the regions based on population and may consider the impact of the opioid epidemic on the regions when determining the regional allocations.
- Provides new, detailed Local Income Tax (LIT) reports from the Department of Revenue (DOR) to all counties.
- Allows the DOR to adjust the LIT timeline when the DOR or IRS change the tax filing date and allows LIT distributions to be adjusted with the returns adjustment.
- Makes the Community Crossings Program non-reverting and inviolable by the executive branch.
- Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes.
- Specifies that the deadline for adjourning sine die for the 2021 session of the general assembly is November 15, 2021, and that the current deadline of April 29 remains in place for future long sessions.
- Provides that the regular technical session statute does not apply in calendar year 2021.
- Specifies the deadlines for signing enrolled acts and presenting them to the governor for bills passed after April 19, 2021, and before May 1, 2021.
- Specifies the following:
  - (1) That the 2021 interim is the period beginning May 1, 2021, and ending November 15, 2021.
  - (2) That for 2021, the prohibited period concerning fundraising activities is through April 29, 2021, rather than the date on which the general assembly adjourns sine die.
  - (3) That the budget committee is required to meet at least once between April 30, 2021, and July 1, 2021. (Current law requires the budget committee to meet at least once in the two months following the general assembly adjournment sine die.)
- Provides that a redistricting commission is established to determine congressional districts if the general assembly adjourns sine die before November 15, 2021, without having enacted a law establishing congressional districts. (Current law refers to the adjournment of the general assembly without specifying an adjournment sine die or a particular date.)
- Provides provisions for opioid litigation and settlements, including opt out provisions for political subdivisions.
- Specifies distributions and uses of funds received from opioid litigation settlements that resolve existing state and political subdivision litigation lawsuits as of January 1, 2021.
- Establishes the Pokagon Band Tribal-state compact fund and specifies the purposes for the fund.
- Transfers the operations of the Indiana department of gaming research into a newly established gaming research division of the Indiana gaming commission.
- Repeals the exoneration fund.
- Removes the annual appropriation provision for the examinations fund of the state board of accounts.
- Establishes the Indiana career accelerator fund (fund) to be administered by the Indiana economic development corporation (IEDC).
- Provides that the IEDC may award financial assistance awards from the fund to assist individuals in obtaining credentials from qualified education programs.
- Defines “qualified education program” for purposes of an award.
- Repeals the Indiana regional cities development fund.
- Establishes the regional economic acceleration and development initiative (READI) fund to provide grants and loans to support economic development and regional economic acceleration and development.

- Provides that the IEDC shall administer the fund.
- Requires the IEDC to establish a policy for the regional economic acceleration and development initiative.
- Replaces the state superintendent of public instruction with the secretary of education or the secretary's designee as a member of the distressed unit appeal board.
- Specifies the provisions that apply when the distressed unit appeal board suspends payments on loans or advances from the common school fund.
- Provides certain add backs and subtraction used in determining Indiana adjusted gross income.
- Changes the definition of "Internal Revenue Code" in the adjusted gross income tax law to mean the Internal Revenue Code of 1986 as amended and in effect on March 31, 2021.
- Makes changes to the state income tax deduction for unemployment compensation.
- Amends the venture capital investment tax credit to apply to taxpayers that provide qualified investment capital to certain qualified Indiana investment funds (qualified fund).
- Provides that the IEDC may only certify a fund as a qualified fund if the fund meets the definition of a venture capital fund under federal regulations and the fund makes investments according to specified policy requirements and priorities.
- Provides that a taxpayer may not claim a credit certified with regard to a qualified fund before July 1, 2023.
- Specifies the maximum available tax credits in a calendar year with regard to a qualified fund.
- Increases the maximum available tax credits in a calendar year with regard to qualified Indiana businesses under current law, including an additional increase in the maximum amount if the qualified Indiana business is a minority business enterprise or a women's business enterprise.
- Caps the total amount of credits that the IEDC may award in a calendar year at \$20,000,000, provided that not more than \$7,500,000 is awarded for proposed investments in a qualified fund.
- Increases the tax credit that a taxpayer can claim for contributions made to a scholarship granting organization for state fiscal years 2022 and 2023.
- Provides a tax credit against adjusted gross income tax and financial institutions tax liability for monetary contributions to a qualifying foster care organization equal to 50% of the amount of the contribution, but not to exceed \$10,000 for a taxable year.
- Defines a "qualifying foster care organization".
- Caps the total amount of the tax credits allowed in any state fiscal year to \$2,000,000.
- Sunsets the tax credit on July 1, 2025.
- Adds certain procedural, accounting, and reporting requirements regarding the local income tax.
- Increases the special purpose local income tax rate that may be imposed in a county that is a member of a regional development authority.
- Imposes an excise tax, known as the electronic cigarette tax, on the retail sale of vapor products and consumable material in Indiana (does not include closed system cartridges).
- Imposes a tax on the distribution of closed system cartridges.
- Extends the expiration date of the Nashville food and beverage tax.
- Repeals the deposit of a part of the wine excise tax rate collected on each gallon of wine in the wine grape market development fund and requires the department of state revenue to instead deposit that part of the wine excise tax in the state general fund.
- Provides that, beginning July 1, 2021, all aviation fuel excise tax revenue is transferred to the airport development grant fund. (Under current law, 50% of the aviation fuel excise tax revenue is transferred to the general fund and 50% is transferred to the airport development grant fund.)
- Removes annual budget committee review of the distribution formula established by Indiana department of transportation for the public mass transportation fund.
- Requires budget committee review before any money may be transferred from the local road and bridge matching grant fund.
- Establishes the Internet crimes against children fund to be administered by the state police

department.

- Specifies the uses of the fund.
- Requires an authorized service provider to use at least 85% (instead of 75%) of the reimbursement rate increase to pay payroll tax liabilities and to increase wages and benefits paid to direct care staff.
- Makes a conforming change to a provision for annual transfers to the Marion County health and hospitals corporation.
- Provides that the office of the secretary of family and social services shall apply to the United States Department of Health and Human Services regarding a waiver to implement the mobile integrated healthcare program and to receive funding through Section 9813 of the American Rescue Plan (ARP).
- Requires the office of the secretary of family and social services to report on the progress in the development of a risk based managed care program for Medicaid recipients who are eligible to participate in the Medicare program and receive nursing facility services.
- Requires state budget committee review of a request for proposal for the procurement of a Medicaid program before the request for proposal may be issued.
- Specifies that the office of the secretary of family and social services may not give certain preference under the in-home early education services reimbursement program based on the county in which a child is located.
- Adds certain fee provisions under the state permit program for the implementation of federal regulations for the disposal of coal combustion residuals in landfills and surface impoundments contained in Senate Bill 271.
- Extends the expiration of the hospital assessment fee and the quality assessment fee from June 30, 2021, to June 30, 2023.
- Extends the expiration date for funding of certain charter schools for adults.
- Extends the ability of the state board of education to authorize new innovation network charter schools from June 30, 2021, to June 30, 2023.
- Provides that before a governing body of a school corporation may enter a public-private agreement the project plan and other information must be reviewed by the budget committee.
- Provides that a student who was unable to take a graduation examination during the 2020-2021 school year due to the coronavirus disease (COVID-19) may still be eligible to graduate.
- Increases the amount of a grant under the charter and innovation network school grant program.
- Specifies provisions that apply to advances under the charter school and innovation school advance program.
- Specifies factors in determining an eligible pupil for purposes of the ADM count.
- Provides that, for purposes of determining basic tuition support for a school corporation, the department of education (department) must review the daily attendance of each student to determine whether, of the instructional services that the student receives from a school corporation, at least 50% is virtual instruction.
- Specifies the school days for which the department must review daily attendance.
- Requires the department to take into consideration whether a student transferred to the school corporation during the dates that the department reviews daily attendance.
- Changes the eligibility requirements to receive choice scholarships.
- Makes changes to the amount of tuition an eligible choice scholarship student is entitled to receive to attend a choice scholarship school.
- Repeals provisions that provide eligibility to certain students if the student's household income increases.
- Removes a provision that prevents unused money appropriated to the department of education for the advanced placement program from reverting to the state general fund.
- Removes all fees for a license to carry a handgun and makes conforming amendments.
- Requires, with exceptions, the department of child services to:
  - (1) enter into an agreement and provide an adoption subsidy to each adoptive parent of a

child with special needs who is eligible for an adoption subsidy; and  
(2) allocate to the adoption assistance account funds necessary to make the adoption subsidy payments.

- Specifies the amount of adoption subsidy payments.
- Defines “qualified city” and “mixed use development project.”
- Extends the judicial and legislative branch leave conversion pilot program through June 30, 2023.
- Appropriates amounts for defeasing bonds.
- Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2022, do not revert to the state general fund.
- Appropriates \$400,000,000 from the state general fund to the pre-1996 account of the teachers’ retirement fund.
- Makes appropriations to the Indiana public retirement system and the treasurer of state for specified cost of living adjustments.
- Provides that augmentation is allowed from funds in each account created within the federal economic stimulus fund.
- Establishes the higher education funding task force as a 2021 interim study committee for the purpose of studying funding for higher education.
- Specifies the members of the task force.
- Requires the task force to submit and present a report to the budget committee before November 1, 2021.
- Urges the legislative council to assign to an appropriate interim study committee during the 2021 legislative interim the task of studying the issues of affordable housing, workforce housing, and “missing middle” housing in Indiana.
- Requires the department of education to prepare and submit a report to the legislative council concerning the availability of federal funding that may be used to hire school counselor for high schools, with a focus on career counseling and planning for technical or vocational training paths.
- Makes conforming changes.

## **HEA 1164, PL 177: VARIOUS UTILITY MATTERS**

Author: Manning

Sponsor: Messmer

### **Aim Comments:**

When HEA 1164 was introduced, it contained a variety of telecom-related provisions, many of which were negotiated with the bill’s author and sponsor, Aim, other local government and utility stakeholders, and the telecommunications industry.

One section of the bill, as introduced, was designed to streamline right of way permitting and fee structures, but it would have had the effect of negatively impacting the ability of local units to properly manage public rights of way. The good news is that this section was completely removed from the bill, and the language did not pass. Aim and other stakeholders have committed to work together over the interim in an effort to find a more balanced way forward.

Unfortunately, the final version of the bill did still contain language putting new limitations on a permit authority’s ability to deny applications for new small cell (5g) poles in residential areas.

Under current law, if a residential neighborhood were designated as a buried utility area prior to May 1, 2017, an application for a new small cell to be installed in the neighborhood would be subject to a local waiver process or zoning procedure, under which the permit authority could deny the placement of a new pole. Under HEA 1164 and effective July 1, 2021, if there is any aboveground infrastructure in the designated area other than light poles and other approved small cell poles, then the permit

authority no longer has the ability to deny the placement of new small cell poles under the local waiver process. The oversight is limited to public safety reasons, as it is for small cell poles elsewhere in the community.

Other language was added in this section that changes the notice process when neighborhood associations or homeowners associations request to receive notice of new small cell applications. There is also new, optional "collaboration" language for a permit authority to work with HOAs and neighborhood associations on the preferred location and aesthetics of new poles within the residential neighborhood.

The bill also prohibits permit authorities from imposing maximum height or minimum separation distance requirements on macro cell towers. Any local zoning process still applies, but any ordinances that impose these requirements across the board are not enforceable.

Another section of the bill establishes a calculation for determining nondiscriminatory, just and reasonable pole attachment fees that are being charged to cable operators by municipalities on municipally-owned electric distribution poles and by rural electric cooperatives.

- Exempts a contract for the lease of state property under which no state expenditures are required from provisions:
  - (1) requiring certain disclosures and certifications by a prospective state contractor regarding violations of Indiana telephone solicitation and automated calling statutes;
  - (2) regarding cancellation of public purchasing contracts due to lack of funds;
  - (3) regarding state contractor use of the E-Verify program; and
  - (4) prohibiting state contractor employment of unauthorized aliens.
- Establishes a calculation for determining nondiscriminatory, just, and reasonable rental fees charged by:
  - (1) rural electric cooperatives; and
  - (2) municipalities providing electric service; that own or control electric distribution poles for attachments to those poles by cable operators.
- Sets forth rights and duties of pole owners and attaching entities with respect to:
  - (1) unauthorized pole attachments; and
  - (2) pole attachment transfers and relocations.
- Provides that the Indiana utility regulatory commission (IURC) may not require a communications service provider to:
  - (1) file a tariff; or
  - (2) report to the IURC any information that is:
    - (A) available to the public on the communications service provider's Internet web site;
    - (B) filed with the FCC; or
    - (C) otherwise available to the public; except as required by the IURC to respond to consumer complaints or information requests from the general assembly.
- Makes the following changes to the statute concerning permits for wireless service providers:
  - (1) Amends the factors that must exist for a permit authority to prohibit the placement of a new utility pole or wireless support structure in connection with the construction, placement, or use of a small cell facility in areas designated strictly for underground or buried utilities.
  - (2) Provides that neighborhood associations, homeowners associations, and homeowners may request to be notified of applications by communications service providers for certain permitted uses of the rights-of-way in those designated areas, in addition to requesting notice of applications for new utility poles or new wireless support structures (as provided under current law).
  - (3) Sets forth a procedure by which a permit authority may elect to collaborate with a neighborhood association or a homeowners association to adopt neighborhood specific

guidelines on the preferred location and reasonable aesthetics of new utility poles or new wireless support structures within the neighborhood association's or homeowners association's jurisdiction.

(4) Provides that a permit authority may not impose:

(A) a restriction on maximum height of a wireless support structure, subject to certain federal regulations and state laws; or

(B) a requirement regarding minimum separation distances between wireless support structures.

- Provides that a tariff filed with the IURC by a communications service provider is effective upon filing.
- Provides that a communications service provider may access public rights-of-way under the control of a county or municipality to the same extent as a public utility.
- Provides that a video service provider is not required to provide the IURC with information describing the provider's programming, including the provider's channel lineups or channel guides.
- Exempts a political subdivision's disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider from certain provisions regarding disposal of property by a political subdivision.
- Provides an exemption to the public works law for certain work done by the employees of a conservancy district established for the purpose of water or sewage treatment.

## **HEA 1191, PL 180: ENERGY MATTERS**

Author: Pressel

Sponsor: Koch

### **Aim Comments:**

HEA 1191 preempts local units of government from proscribing design standards on construction in their jurisdiction that requires certain materials to be used for the purposes of energy savings. This is similar in concept to a much broader bill that was introduced but did not pass which would have preempted the regulation of all design elements on residential structures. Although written more narrowly, HEA 1191 calls into question the ability of communities to enforce certain design and material regulations that have an energy-savings component.

HEA 1191 also preempts local units of government from prohibiting certain types of energy sources in new construction. This is part of a national movement to "ban the ban" on natural gas in new buildings after a handful of cities across the country started to ban natural gas hookups in new buildings.

- Provides that a county executive or the legislative body of a city or town does not have the power to prohibit:
  - (1) a public utility or department of public utilities from furnishing utility service to a utility customer; or
  - (2) a customer of a public utility or department of public utilities from purchasing, using, or connecting or reconnecting to a utility service; based on the energy source of the utility service.
- Defines a "federal phaseout mandate" as any federal statutory or regulatory requirement that:
  - (1) is established after April 20, 2021, by Congress, a federal agency, or a federal executive order; and
  - (2) requires the phaseout or discontinuance of a particular type of electric generating facility, technology, or fuel source.
- Requires the utility regulatory commission to consider in the context of:
  - (1) applications for certificates of public convenience and necessity for new generating facilities; and

- (2) integrated resource planning; the impact of federal phaseout mandates on the estimated useful life of certain generating facilities of an electric utility, including on depreciation expense associated with such facilities.
- Provides that, except for purposes of compliance with specified building and fire safety laws, a local unit does not have the power to:
  - (1) require that a particular component, design, or type of material be used in the construction of a building because of the energy saving or energy producing qualities of the component, design, or material;
  - (2) prohibit the use of a particular component, design, or type of material in the construction of a building because the component, design, or material does not meet an energy saving standard;
  - (3) require that a building or structure be retrofitted with a particular device or type of material because of the energy saving or energy producing qualities of the device or material;
  - (4) prohibit or restrict the purchase or use of vehicles based upon the type of energy used; or
  - (5) prohibit the sale, installation, or use of:
    - (A) natural gas powered:
      - i. home heating equipment;
      - ii. home appliances; or
      - iii. outdoor heating appliances, torches, lamps, or other decorative features; or
    - (B) outdoor grills and stoves.
- Specifies that:
  - (1) this prohibition does not apply with respect to requirements included in procurement documents used to procure goods and services, including the construction or design of buildings, to be owned or used by a local unit; and
  - (2) a local unit may adopt bid specifications for a public works project that include energy savings or energy production provisions with respect to the components, design, or materials for the specific project.

## **HEA 1220, PL 131: 21ST CENTURY ENERGY POLICY DEVELOPMENT TASK FORCE**

Author: Soliday

Sponsor: Koch

- Reestablishes the 21st century energy policy development task force (task force), following its expiration on December 2, 2020.
- Provides that the task force consists of 17 members as follows:
  - (1) Six members of the house of representatives, with four of those members appointed by the speaker, and two appointed by the minority leader.
  - (2) Six members of the senate, with four of those members appointed by the president pro tempore, and two appointed by the minority leader.
  - (3) The utility consumer counselor or the utility consumer counselor's designee.
  - (4) The public finance director or the public finance director's designee.
  - (5) Three members appointed by the governor, each of whom must have specified experience with respect to energy.
- Provides that:
  - (1) one of the members appointed by the speaker; and
  - (2) one of the members appointed by the president pro tempore; shall serve as co-chairs of the task force.
- Provides that an individual appointed to serve on the task force at any time before December 2, 2020, under the expired statute governing the task force may be appointed to serve on the task force after December 1, 2020, under these new provisions, at the discretion of the appointing authority.
- Provides that:
  - (1) all meetings of the task force shall be open to the public in accordance with the state's open door law; and

- (2) all records of the task force are subject to the requirements of the state's public records law.
- Sets forth specific issues that the task force must study not later than November 1, 2022.
- Requires the task force to:
  - (1) develop recommendations for the general assembly and the governor concerning these issues;
  - (2) issue a report setting forth the recommendations developed; and
  - (3) not later than November 1, 2022, submit the report to the executive director of the legislative services agency, the governor, the chair of the utility regulatory commission, and the utility consumer counselor.
- Provides that these provisions expire July 2, 2023.

### **HEA 1287, PL 189: WATER OR WASTEWATER SERVICE**

Author: Pressel

Sponsor: Jon Ford

- Allows a water or wastewater utility to extend service to a developed but underserved area without a deposit from customers if the extension of service will result in a positive contribution to the utility's overall cost of service over a 20 year period.
- Provides that the extension of service will be considered as resulting in a positive contribution to the utility's overall cost of service over a 20 year period to the extent that rates to be paid by 50% or more of the customers who could be served by the extension of service would enable the utility to fully recover the weighted cost of debt and depreciation expense attributable to the cost of the main extension for the extension of service.
- Provides that if a water or wastewater utility determines that an extension of service will not result in a positive contribution to the utility's overall cost of service over a 20 year period, the utility may require a deposit or other adequate assurance of performance from the customers to be served by the extension of service.
- Provides that if a property owner makes an improvement to the property owner's dwelling, the property owner is not required to upgrade or discontinue use of the property's septic tank soil absorption system or to connect to a sewer system if the improvement does not include the addition of a bedroom or bedroom equivalent and the property owner receives a written determination from a qualified inspector that the septic tank soil absorption system is not failing.
- Provides that if a tract of land is located within the boundaries of a conservancy district established for sewage purposes, no structure located on the tract of land is connected to or served by the conservancy district's sewage service, the tract of land has been annexed by a municipality that will provide sewer service to the tract of land, and other conditions are met, the owner of the tract of land may petition the court that established the conservancy district for the removal of the tract of land from the boundaries of the conservancy district.

### **HEA 1348, PL 191: ASSESSMENT OF UTILITY GRADE SOLAR PROJECTS**

Author: Soliday

Sponsor: Messmer

- Provides that, for assessment dates beginning after December 31, 2021, the land portion of the fixed property of a utility grade solar energy installation facility shall be assessed at an amount that does not exceed the solar land base rate for the region in which the property is located.
- Provides that assessing officials shall follow the normal guidelines and procedures as are applicable under the property tax cap chapter.
- Provides a limited exception for certain utility grade solar energy installation facilities that were assessed on the January 1, 2021, assessment date.
- Requires the department of local government finance (department) to annually determine and release a solar land base rate for each region based on the median true tax value per acre of

all land in the region classified under the utility property class codes of the department for the immediately preceding assessment date.

## **HEA 1449, PL 89: BROADBAND DEVELOPMENT**

Author: Soliday

Sponsor: Koch

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, SEA 352, SEA 359, and SEA 377.

As you can see from the bill summary, HEA 1449 contains many complex provisions. Some of the major highlights include: 1) changing the priorities of the existing Next Level Connections Broadband Grants to favor schools, rural health clinics, and students in addition to the current priority of rural areas; 2) updating standards to new FCC guidelines; 3) creating a new program for subsidy payments for broadband service on behalf of individual consumers with priority to schools, rural health clinics, and students; and 4) creating the Indiana Broadband Connectivity Program under which individuals who do not have access to broadband can post their address on a state portal so providers can bid to extend service to unserved addresses and use state grant funding to do so.

- Amends the statute governing the awarding of grants from the rural broadband fund as follows:
  - (1) Provides that an “eligible broadband project” for purposes of the statute includes a project for the deployment of terrestrial broadband infrastructure:
    - (A) to buildings used by public school corporations primarily for educating students;
    - (B) to rural health clinics;
    - (C) to ensure that eligible students (defined as Indiana residents who are less than 23 years of age and who are enrolled in a K-12 school in Indiana) have access points providing a connection to eligible broadband service; and
    - (D) in rural areas in Indiana. (Current law provides that an “eligible broadband project” means only a project for the deployment of broadband infrastructure for the provision of eligible broadband service in rural areas in Indiana.)
  - (2) Specifies that terrestrial broadband infrastructure includes infrastructure used for a fixed wireless Internet connection but does not include infrastructure used for a satellite Internet connection.
  - (3) Provides that “eligible broadband service” means a connection to the Internet that provides an actual speed of at least:
    - (A) 1,000 megabits per second downstream for a project involving the deployment of broadband infrastructure to public school corporation buildings or rural health clinics;
    - or
    - (B) 50 megabits per second downstream and at least five megabits per second upstream for a project to provide to eligible students access points for connections to eligible broadband service, or for a project to provide eligible broadband service to rural areas.
  - (4) Specifies the following priorities for the awarding of grants from the rural broadband fund:
    - (A) First, for extending eligible broadband service to public school corporation buildings with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
    - (B) Second, for extending eligible broadband service to rural health clinics with respect to which the only available Internet connections are at actual speeds of less than 1,000 megabits per second downstream.
    - (C) Third, for extending eligible broadband service so as to ensure that every eligible

- student has at the student's residence an access point providing a connection to eligible broadband service.
- (D) Fourth, extending eligible broadband service to rural areas in which the only available connections to the Internet are at actual speeds of less than 25 megabits per second downstream.
- (5) Provides that a state agency may fund an eligible broadband project that is designated as a lower priority under the funding priorities set forth in the statute if no competitive applications for eligible broadband projects designated as a higher priority are submitted in a particular round of grant funding.
- (6) Specifies that a grant may not be awarded from the rural broadband fund:
- (A) for any project to extend the deployment of eligible broadband service to one or more service addresses for which funding from the federal government has been used or will be disbursed to extend broadband service at actual speeds of at least 25 megabits per second downstream to those same addresses; or
  - (B) if the awarding of the grant would jeopardize funding that has been awarded by the federal government under certain programs for purposes of expanding broadband service in Indiana.
- (7) Provides that the system of priorities used by the office of community and rural affairs (office) for awarding grants from the rural broadband fund must give preference to projects that require a lower contribution from the fund per passing, as determined by a specified calculation.
- (8) Provides that the procedures established by the office for the awarding of grants from the rural broadband fund must require the office to:
- (A) include, in publishing grant applications to the office's Internet web site, specific addresses for which state funds would be used to provide eligible broadband service; and
  - (B) consider, in making a determination as to whether to award a grant to an applicant, all comments or objections received during the statutory comment period, including any new grant application that:
    - i. is submitted within the statutory comment period by another eligible broadband service provider; and
    - ii. indicates that such other provider would be willing to provide eligible broadband service to the same addresses at a lower cost to the state.
- (9) Requires the office to establish a program to expand broadband Internet connectivity by:
- (A) entering into agreements with broadband service providers under which such providers agree to accept subsidy payments distributed by the office as a form of payment for eligible broadband service; and
  - (B) distributing subsidy payments to participating providers to be used as a form of payment for eligible broadband service provided before July 1, 2025, to certain persons and entities, prioritized as follows:
    - i. School buildings.
    - ii. Rural health clinics.
    - iii. Eligible students.
- (10) Provides that money in the rural broadband fund may be used to provide financial assistance under the new program.
- (A) Requires the office to establish and publish on the office's Internet web site:
- i. Specific, measurable goals; and
  - ii. Metrics to be used in assessing the progress made toward accomplishing those goals; for the disbursement of state broadband grant funds.
- (11) Requires the office to report annually to the interim study committee on energy, utilities, and telecommunications (rather than to the general assembly, under current law) concerning the awarding of state broadband grants.
- (12) Requires the state board of accounts to conduct an annual audit (rather than an audit

every three years, under current law) of the awarding of state broadband grants.

- Establishes the Indiana broadband connectivity program (connectivity program), under which the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
- Provides that the public broadband portal must solicit information as to whether one or more eligible students reside at an address that is reported by an individual through the portal.
- Provides that the office may contract or consult with one or more third parties in the creation or administration of the portal.
- Provides that a broadband Internet provider may:
  - (1) register with the connectivity program;
  - (2) receive, at least every three months, notice of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
  - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
  - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
- Provides that if the office does not receive notice from any providers that minimum broadband Internet is available at an address reported through the public broadband portal, the office shall transmit to each registered provider a bid notification for provision of broadband Internet service at the address.
- Specifies requirements for a provider's submission of a bid under the program.
- Provides that in evaluating the bids received, the office shall select the provider whose bid presents the lowest cost to the state for extension of the provider's broadband Internet infrastructure to the address.
- Provides that the amount of a grant awarded to a registered provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000.
  - (2) A per-passing amount that exceeds the state's cost per passing for all grants awarded from the rural broadband fund for rural broadband grants as of the last day of the immediately preceding state fiscal year, as calculated by the office.
- Requires the office to enter into an agreement with a provider that is awarded a grant under the program.
- Requires the office to provide to the general assembly an annual report containing specified data regarding the connectivity program.

## **HEA 1466, PL 42: PERFORMANCE BONDING OF DEVELOPERS**

Author: Pressel

Sponsor: Doriot

### **Aim Comments:**

HEA 1466 requires (rather than allows) a local unit to grant a secondary plat approval if the applicant provides either a performance bond for the completion of certain items or written evidence of a contract with a utility for the installation or extension of utilities.

Under current law, the unit has discretion to decide whether to approve the secondary plat with proof of the performance bond or utility contract for all required infrastructure, sidewalks, and landscaping, but this will now be mandatory with the required proof of bond or contract. By requiring a municipality to grant the secondary plat if a developer provides a bond or proof of financial responsibility, it limits the options the municipality may utilize in ensuring projects are completed and may change current

procedures in certain communities.

- Requires (rather than allows) a local unit to grant a secondary approval to a plat for a subdivision in which improvements and installations have not been completed if the applicant provides:
  - (1) a performance bond or other proof of financial responsibility; or
  - (2) if installation or extension of utility service is involved, proof of contracting with a utility or a political subdivision for the installation or extension.
- Provides that the only condition precedent that a local unit may require to recording a secondary plat is that the land developer obtain a performance bond or other surety for:
  - (1) unfinished streets, sanitary piping, storm water piping systems, water mains, sidewalks and ornamental landscaping located in common areas; and
  - (2) erosion control.
- Provides a definition of "common area".

## **HEA 1520, PL 60: ELECTRIC UTILITY RELIABILITY ADEQUACY METRICS**

Author: Soliday

Sponsor: Koch

- Provides that a public utility (defined in the bill as a utility listed in the utility regulatory commission's (IURC's) rule concerning integrated resource planning) that owns and operates an electric generating facility serving Indiana customers shall operate and maintain the facility using good utility practices and in a manner:
  - (1) reasonably intended to support the provision of reliable and economic electric service to customers; and
  - (2) reasonably consistent with the resource reliability requirements of the Midcontinent Independent System Operator (MISO) or any other appropriate regional transmission organization.
- Provides that, not later than 30 days after the deadline for submitting an annual planning reserve margin report to MISO, each public utility providing electric service to Indiana customers shall file with the IURC a report that provides the following information for each of the next three resource planning years:
  - (1) The capacity, location, and fuel source for each electric generating facility that is owned and operated by the electric utility, and that will be used to provide electric service to Indiana customers.
  - (2) The amount of generating resource capacity or energy, or both, that the public utility has procured under contract, and that will be used to provide electric service to Indiana customers.
  - (3) The amount of demand response resources available to the public utility under contracts and tariffs.
  - (4) The planning reserve margin requirements and other federal reliability requirements that the public utility is obligated to meet, including a comparison of each reported planning reserve margin requirement with the planning reserve margin requirement for the 2021-2022 planning year.
  - (5) The reliability adequacy metrics (as defined in the bill) for the public utility, as forecasted for the three planning years covered by the report. Provides that in reviewing a public utility's report, the IURC may request technical assistance from MISO or any other appropriate regional transmission organization in making certain determinations concerning the adequacy of the public utility's available capacity resources to support the provision of reliable electric service.
- Provides that if, after reviewing a public utility's report, the IURC is not satisfied that the public utility can:
  - (1) provide reliable electric service to the public utility's Indiana customers; or
  - (2) meet its planning reserve margin requirement or other federal reliability requirements; during any of the planning years covered by the report, the IURC may conduct an

investigation as to the reasons.

- Provides that if, after such an investigation, the IURC determines that the capacity resources available to the public utility will not be adequate to support the provision of reliable electric service to the public utility's Indiana customers, or to allow the public utility to meet its planning reserve margin requirements or other federal reliability requirements, the IURC shall issue an order directing the public utility to acquire or construct such capacity resources as are reasonable and necessary to enable the public utility to meet these requirements.
- Provides that not later than 90 days after the date of such an order by the IURC, the public utility shall file for approval with the IURC a plan to comply with the order.
- Provides that the IURC shall annually submit to the governor and to the interim study committee on energy, utilities, and telecommunications a report that includes the following:
  - (1) The IURC's analysis regarding the ability of public utilities to:
    - (A) provide reliable electric service to Indiana customers; and
    - (B) meet their planning reserve margin requirements or other federal reliability requirements; for the next three resource planning years.
  - (2) A summary of:
    - (A) the projected demand for retail electricity in Indiana over the next calendar year; and
    - (B) the amount and type of capacity resources committed to meeting this demand.
- Authorizes the IURC to adopt rules to implement these provisions.

### **SEA 348, PL 154: WASTEWATER TASK FORCE**

Author: Koch

Sponsor: Soliday

#### **Aim Comments:**

SEA 348 creates an 18-member task force to examine statewide wastewater issues including consolidation, acquisition, and lifecycle management. The task force is also charged with developing a long-term plan to address wastewater needs in Indiana.

Two topics added to the list of items to study include an evaluation of "combined billing" to allow a utility company to allocate a portion of the costs of providing wastewater services to the company's water customers, and a consideration of the appropriateness of and circumstances for allowing municipally owned utilities to sell water or wastewater services outside of their corporate boundaries.

The membership of this task force will include twelve legislators and six others appointed by the Governor. The Governor's appointments must include one member specifically representing municipalities served by a wastewater operator that is not under the jurisdiction of the IURC.

This bill was also amended to create a water infrastructure grant program administered by the Indiana Finance Authority, a compliment to the \$60M provided in the budget for new water infrastructure grants.

- Establishes the task force on wastewater infrastructure investment and service to underserved areas (task force).
- Provides that the task force consists of the following 18 members:
  - (1) Six members of the senate, with the president pro tempore appointing four members (one of whom serves as co-chair of the task force), and the minority leader appointing two members.
  - (2) Six members of the house of representatives, with the speaker appointing four members (one of whom serves as co-chair of the task force), and the minority leader appointing two members.
  - (3) Six gubernatorial appointees, including the following:
    - (A) One officer or employee of the state.

- (B) One member representing operators of wastewater management systems.
  - (C) One engineer, or another professional, with expertise in wastewater management systems.
  - (D) One member representing ratepayers.
  - (E) One member representing municipalities served by a wastewater operator not under the jurisdiction of the utility regulatory commission.
  - (F) One member of the general public.
- Sets forth the duties of the task force.
  - Requires the task force to develop a long term plan for addressing wastewater needs in Indiana.
  - Requires the task force to issue a report setting forth its recommendations to:
    - (1) the executive director of the legislative services agency for distribution to members of the general assembly; and
    - (2) the governor; not later than December 1, 2021.
  - Provides that the bill's provisions concerning the task force expire January 1, 2022.
  - Establishes the water infrastructure grant program (program) to be administered by the Indiana finance authority (authority).
  - Establishes the water infrastructure grant fund (fund) as a source of money for grants, loans, and other financial assistance to, or for the benefit of, participants in the program.
  - Sets forth purposes for which money in the fund may be used, including the planning, designing, acquisition, construction, renovation, improvement, or expansion of:
    - (1) water systems; and
    - (2) wastewater or storm water collection and treatment systems.
  - Requires the authority to adopt guidelines to establish criteria for the making of grants, loans, and other financial assistance from the fund.
  - Sets forth certain conditions that apply to the making of grants, the making of loans, and the providing of other financial assistance from the fund.
  - Requires the authority to establish a project prioritization system for the purposes of awarding loans and grants from the fund.
  - Sets forth certain variables that the project prioritization system must include.
  - Provides that the authority may provide advisory services and other services to a participant in connection with a grant, a loan, or other financial assistance from the fund.
  - Requires the public finance director to submit to the budget committee and the legislative council, in each odd-numbered year through 2023, a report concerning grants, loans, or other financial assistance made available to participants from the fund.

## **SEA 349, PL 120: FINANCING, TRANSFER, AND IMPROVEMENT OF UTILITY ASSETS**

Author: Koch

Sponsor: Soldiay

- Requires that the priority ranking system used by the Indiana finance authority in making loans or other financial assistance from:
  - (1) the drinking water revolving loan fund; or
  - (2) the wastewater revolving loan fund; must prioritize loans securing longer term benefits over shorter term projects, all other factors being equal.
- Provides that not later than 60 days after the effective date of a change in the applicable federal or state income tax rate as a result of new legislation, a water or wastewater utility shall petition the utility regulatory commission (IURC) for a water or wastewater utility surcharge that adjusts the water or wastewater utility's rates and charges to provide recovery for the change in the federal or state income tax rate.
- Provides that a water or wastewater utility that serves fewer than 8,000 customers may, but is not required to, file a petition for such a surcharge.
- Provides that a surcharge shall be calculated to reflect the difference between:
  - (1) the amount of federal or state income taxes that each existing rate or charge of the water or wastewater utility was designed to recover based on the income tax rate in effect at the

- time the rate or charge was approved; and
- (2) the amount of federal or state income taxes that would have been embedded in the given rate or charge had the new tax rate been in effect at the time of approval.
- Provides that a surcharge shall not include normalization of a water or wastewater utility's accumulated deferred income taxes.
- Provides that the IURC shall approve a proposed surcharge if the IURC finds that:
  - (1) the surcharge has been calculated correctly; and
  - (2) the water or wastewater utility's proposal is just and reasonable.
- Provides that an approved surcharge shall operate on a prospective basis.
- Amends the applicability language of the statute governing the transfer, acquisition, and improvement of utilities by municipalities to specify that the statute applies to a municipally owned electric, water, wastewater, or combined water and wastewater utility.

## **SEA 352, PL 121: BROADBAND DEVELOPMENT**

Author: Koch

Sponsor: Manning

### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 359, and SEA 377.

SEA 352 requires the Office of Community and Rural Affairs (OCRA) to establish a new "challenge" process that is specific to the initial letters of intent stage, where prospective applicants write a letter of intent identifying all addresses and census blocks they intend to include in the grant application. Under SEA 352, the address data for the properties that will be served by the proposed project must be publicly posted, and other broadband providers can challenge a listed address or census block as an area that is already served with speeds of at least 25/3. This is designed to prevent overbuilding or allowing certain projects to be subsidized with grant dollars when other providers made the investment to serve the area without assistance.

- Requires the office of community and rural affairs (office) to establish a process to be used before each formal submission of applications for grants from the rural broadband fund (fund) in which the office will:
  - (1) invite any prospective grant applicant to submit a letter of intent identifying all addresses and census blocks that the applicant intends to include in a grant application; and
  - (2) make all addresses and census blocks submitted in letters of intent publicly available for a period of time, during which eligible broadband service providers will have the opportunity to challenge a listed address or census block.
- Provides that challenges under the new process are to be based on the asserted deployment of "minimum broadband Internet" (defined as a terrestrial connection to the Internet that provides an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) at a specific address.
- Specifies that the process established is to precede and remain distinct from the statutory procedures for actual grant applications.
- Provides that the department of transportation (INDOT) may require a private entity to agree, as a condition of INDOT leasing a right-of-way to the private entity, that facilities constructed or installed by the private entity in or under the right-of-way, which if removed would:
  - (1) cause irreparable soil disturbance; or
  - (2) have a detrimental effect on INDOT's facilities or on the facilities of other utilities; will be considered abandoned without additional consideration, upon the private entity's written

notice to INDOT.

- Provides that upon being abandoned, a facility may no longer be used for any purpose by any public or private entity.

### **SEA 359, PL 156: BROADBAND PROJECTS**

Author: Baldwin

Sponsor: Manning

- Requires the Indiana department of transportation (INDOT) to create a broadband corridor program (dig once program) to manage the location, installation, and maintenance of communications infrastructure that is used for the provision of broadband services and is located within the rights-of-way of limited access highways.
- Requires INDOT to adopt policies, procedures, and standards under the dig once program for required installation of fiber conduit by a public or private entity that performs an excavation within a limited access highway right-of-way.

### **SEA 377, PL 158: BROADBAND DEVELOPMENT**

Author: Zay

Sponsor: Soliday

#### **Aim Comments:**

Expanding broadband access in Indiana has been a priority of the Indiana General Assembly for years, especially for rural legislators. The effects of COVID-19 and the need for faster, more reliable service for remote work and virtual learning made this priority even more acute statewide. Multiple bills this year worked in concert to improve broadband access and quality throughout the state. See also: HEA 1001, HEA 1449, SEA 352, and SEA 359.

SEA 377 allows OCRA to create new broadband coverage maps that have address level specificity. This is in response to the FCC maps which typically consider an area of the state served by broadband if at least one home in the census block has broadband access, a standard that has been overestimating coverage for years.

Like HEA 1449, it also contains language establishing the Indiana Broadband Connectivity Program.

- Establishes the Indiana broadband connectivity program (program) for the purpose of expanding availability of broadband Internet connectivity throughout Indiana.
- Provides that as part of the program, the office must establish a public broadband portal through which an individual may report that minimum broadband Internet (defined as a connection to the Internet at an actual speed of at least 25 megabits per second downstream and at least three megabits per second upstream) is unavailable at the individual's residential or business address.
- Provides that a broadband Internet provider may:
  - (1) register with the program;
  - (2) receive, at least every three months, listings of addresses submitted to the office as addresses at which minimum broadband Internet is unavailable;
  - (3) report to the office any listed address at which the provider's minimum broadband Internet service is already available; and
  - (4) bid for an award of a grant for purposes of extending connectivity to broadband Internet service (defined as a connection to the Internet at an actual speed of at least 50 megabits per second downstream and at least five megabits per second upstream) to an address at which minimum broadband Internet is unavailable.
- Provides that in evaluating any bids received under the program, the office shall select the provider whose bid presents the lowest cost to the state.
- Provides that a grant awarded to a provider under the program may not exceed the following:
  - (1) A per-line extension amount that exceeds \$25,000, regardless of the number of addresses

served by the line extension.

- (2) A per-passing amount that exceeds the state's cost per passing for all rural broadband grants awarded from the fund as of the last day of the immediately preceding state fiscal year.
  - Requires the office to provide to the general assembly an annual report containing specified data regarding the program.
  - Provides that the office may maintain a geographic information system (GIS) or similar data base that contains spatial data regarding the availability of broadband Internet service in Indiana.
  - Provides that the office may evaluate the broadband Internet coverage map created by the Federal Communications Commission under the Broadband Deployment Accuracy and Technological Availability Act (FCC map) and:
    - (1) if the office finds that the FCC map:
      - (A) provides address level broadband Internet coverage information; or
      - (B) provides a greater level of detail than the office's broadband Internet coverage map; use the FCC map to update the office's broadband Internet coverage map; or
    - (2) if the office finds that the FCC map does not:
      - (A) provide address level broadband Internet coverage information; or
      - (B) provide a greater level of detail than the office's broadband Internet coverage map;
- report that finding to the interim study committee on energy, utilities, and telecommunications during the 2022 legislative interim.

### **SEA 386, PL 80 COST SECURITIZATION FOR ELECTRIC UTILITY ASSETS**

Author: Koch

Sponsor: Soliday

- Provides that an electric utility that has certain qualified costs that:
  - (1) are associated with an electric generation facility that will be retired from service within 24 months; and
  - (2) are equal to at least 5% of the electric utility's total electric base rate; may file a petition with the utility regulatory commission (IURC) for a financing order authorizing the securitization of the qualified costs.
- Provides that an "electric utility", for purposes of the bill, is a public utility that:
  - (1) owns or operates any electric generation facility for the provision of electric utility service to Indiana customers;
  - (2) is under the jurisdiction of the IURC; and
  - (3) has a total of not more than 200,000 retail electric customers.
- Provides that not later than 240 days after a petition for a financing order is filed, the IURC shall conduct a hearing and issue an order on the petition.
- Provides that in issuing a financing order for cost securitization, the IURC must find that:
  - (1) the electric utility has proposed a reasonable mechanism to reflect a reduction in the electric utility's base rates and charges upon the assessment of securitization charges on customer bills, so as to remove any qualified costs from the electric utility's base rates; and
  - (2) the mechanism will provide timely rate savings for customers.
- Provides that in issuing a financing order for cost securitization, the IURC must find that the electric utility will make capital investments in Indiana in an amount equal to or exceeding the amount of the electric utility's qualified costs, over a period of not more than seven years immediately following the issuance date of the securitization bonds.
- Provides that if the IURC makes the required findings with respect to the petition, the IURC shall issue a financing order that authorizes:
  - (1) the issuance of securitization bonds with a term of not more than 20 years;
  - (2) the collection of securitization charges from the electric utility's customers; and
  - (3) the encumbrance of the resulting securitization property with a lien and security interest.
- Provides that qualified costs authorized in a financing order shall be allocated to the electric utility's customer classes using the same cost allocation methodology approved by the IURC in

- the electric utility's most recent base rate case, subject to certain exceptions.
- Provides that if an electric utility does not cause securitization bonds to be issued not later than 90 days after the date of a final, non-appealable financing order, the electric utility shall file a statement of abandonment with the IURC stating the reasons for the abandonment.
- Provides that a financing order issued by the IURC under these provisions must include a mechanism:
  - (1) requiring that securitization charges be reviewed and adjusted by the IURC at least annually; and
  - (2) allowing an electric utility, on its own initiative, to apply to the IURC at any time during a calendar year for an adjustment of its securitization charges, as the electric utility determines to be necessary; to correct any over collections or under collections of securitization charges, and to ensure the recovery of amounts sufficient to timely make all payments of debt service in connection with the securitization bonds.
- Sets forth provisions concerning the encumbrance of securitization property with a lien and security interest, including provisions concerning:
  - (1) the attachment and perfection; and
  - (2) the priority; of a security interest in securitization property.
- Specifies that securitization bonds are not:
  - (1) a debt or obligation of the state; or
  - (2) a charge on the state's full faith and credit or on the state's taxing power.
- Pledges that the state will not:
  - (1) take or permit any action that would impair the value of securitization property; or
  - (2) reduce, alter, or impair related securitization charges; until certain obligations in connection with the related securitization bonds have been paid or performed in full.
- Requires the IURC to adopt rules to implement these provisions.
- Urges the legislative council to assign to the interim study committee on energy, utilities, and telecommunications (committee) the task of studying during the 2022 legislative interim:
  - (1) the implementation; and
  - (2) use by electric utilities; of the bill's provisions concerning the securitization of costs for retired electric utility assets.
- Provides that if the committee is assigned to study this topic, the committee:
  - (1) shall consider available data and other information concerning participating electric utilities to which the IURC has issued a financing order under the bill's provisions;
  - (2) may request this data and information from certain parties; and
  - (3) shall, not later than November 1, 2022, submit to the legislative council a report setting forth the committee's findings and recommendations, including the committee's recommendations as to whether to allow, under the bill's provisions, additional electricity suppliers to securitize costs associated with retired electric utility assets.

### **SEA 409, PL 162: TOWNSHIP MATTERS**

Author: Niemeyer

Sponsor: Slager

- Makes changes to the information required in the township's annual report.
- Requires the township trustee to annually certify and note on the township budget submitted to the department of local government finance's computer gateway that the township's uniform written standards for township assistance have been filed with the board of county commissioners.
- Allows a township trustee to be appointed as a director of a county building authority.
- Provides that a township is not required to publish the portion of its annual abstract of receipts and expenditures that provides statements of:
  - (1) receipts, showing their source; and
  - (2) expenditures, showing the combined gross payment, according to classification of expense, to each person.

- Provides that the abstract must state that a complete abstract containing the statements described in (1) and (2) is filed with and available for public inspection in the county auditor's office.
- Aligns the township trustee's maintenance duties regarding township cemeteries with the township trustee's maintenance duties as to other cemeteries maintained by the township.

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