



# Barnes & Thornburg LLP

## Legislative Update

117<sup>th</sup> General Assembly

Friday, January 20, 2012

### Week 3 at the Statehouse

Greetings! Late last week a deal was struck by House Republicans and Democrats that gave Democrats until Tuesday to prepare amendments for HB 1001 *Employee's right to work* on Second Reading. The House briefly established quorum with 93 members present on Tuesday. A motion was passed to call the calendar out of order. Seven bills were passed out of Third Reading before the majority of Democrats left for caucus and stalled all Second Reading bills in an effort to stop the Right to Work legislation. The deal quickly fell through when Democrats refused to come back. Since then, the House has struggled to reach quorum as most House Democrats have chosen not to participate in session in an attempt to put Right to Work before the public in a state-wide referendum by an amendment. House Republicans say the unusual move may not be constitutional. Referenda in Indiana have typically been used for local issues (such as taxes) and constitutional matters, not state-wide matters of interest.

The House tried to establish quorum twice each morning on both Wednesday and Thursday. Each time, most of the House Democrats refused to come to the floor. Ten committees were cancelled and rescheduled for later in the week due to the problems on the House floor. Fines of \$1,000 for each lawmaker not present were issued for Wednesday and Thursday. Democrats have filed a temporary restraining order against the fines, naming Representative Bosma and Auditor Tim Berry as defendants in the order. Session for today has been scheduled for 9:00 a.m. for the first attempt at reaching quorum.

If enough House Democrats refuse to come to the floor, the situation may get even more interesting as deadlines approach. The House Third Reading deadline is January 31. The Senate Third Reading deadline follows quickly on February 1, which is also the deadline for House bills on Third Reading in the Senate. March 5 is the Third Reading deadline for Senate bills in the House. The conference committee report deadline will be February 29 for the Senate, and March 3 for the House (without approval of the Rule Committee). March 14 is the last day for adjournment of both houses for 2012.

### Senate

Once again, the Senate has quietly settled down to business. On the horizon is SB 1, or *Right to defend unlawful entry*, which comes in the wake of a 3-2 Supreme Court decision last May that ruled that citizens do not have the right to resist illegal entry by police into their homes. SB 1 passed Second Reading on Thursday, and currently has 35 authors and co-authors, counting both Republicans and Democrats.

Several bills have passed Third Reading and will move to the House. SB 193, entitled *Financial disclosures by local elected officials* passed Third Reading and is headed to the House. This bill will require local elected officials, including school board members, to file a financial disclosure statement with their application in order to run for office.

SB 143 *Automatic taxpayer refund* passed 10-1 in Appropriations on Thursday. SB 143 would exempt the state tuition reserve fund from being considered when determining if state revenues meet the 10% threshold of general revenue required for a taxpayer refund to be given. If excess reserves total less than \$100 million, all excess reserves will go to the pension stabilization fund. If the excess funds are greater, the money will be split, with half going to the pension stabilization fund and half going toward automatic taxpayer refunds. Senator Broden offered an amendment to repeal the taxpayer refund and use the reserves for K-12 education in the general fund, but it failed with a 4-7 vote along party lines. Also in Appropriations, SB 54 *State university use of eminent domain* was amended and passed out of committee 7-4. The bill will allow state universities to use eminent domain to acquire an operating business.

The Senate will convene today at noon.