



Legislative Update

121st General Assembly

Friday, April 12, 2019

Week 14 Overview

The fourteenth week of session at the Indiana General Assembly was also the first week of Conference Committees. Bills go to conference after they have been amended in the opposite chamber and now contain language not yet approved by both chambers. To ensure that both chambers vote to approve all language, the author of the bill will file a motion to concur (agree with the changes) or will file a motion to dissent to the new changes.

If the bill's author files a concurrence, the amended language is put before the chamber to accept the changes by majority vote. If approved, the amended legislation sent to the Governor for his signature or veto.

Conversely, if the author chooses to file a motion to dissent, the bill is sent to a Conference Committee. A Conference Committee is comprised of four conferees from each caucus who meet to negotiate a compromise.

The final result of these negotiations is recorded in a Conference Committee Report which is sent back to the respective caucuses. Before Sine Die—the last day of legislative session—the Conference Committee Report must be approved in each chamber by a majority vote. Conference Committee Reports voted out of each chamber are engrossed and the “enrolled act” is sent to the Governor's office. Conference Committee reports that fail to receive a majority vote are dead.

The fourteenth week of session saw multiple deadlines including: the Tuesday Committee Report Deadline in the House of Representatives and Thursday Committee Report Deadline for the Senate as well as the Second Reading Deadline for the House of Representatives. Bills that did not make it out of committee or out of both chambers with a majority vote are dead. Looking ahead the Second Reading Deadline for the Senate is on Monday, with their Third Reading Deadline on Tuesday. Monday is the Third Reading Deadline for the House of Representatives.

As a reminder, this year is a “long” session, with Sine Die set for April 29th.



Points of Interest

Budget

House Bill 1001, State Budget (Rep. Todd Huston (R-Fishers)) - The Senate amended House Bill 1001, the Biennial Budget, and passed it out of the Appropriations committee. The amended budget would end the biennium with \$2.2 billion in reserves. It appropriates \$14.9 billion to K-12 education tuition support over the biennium with a 2.7% increase in 2020 and a 2.2% increase in 2021. For a more in depth analysis and overview see the Senate Committee on Appropriations Budget Presentation which can be found at (<https://cdn.zephyrcms.com/61e8ab4e-5e08-4e83-b756-95c186ace49d/-/inline/yes/2019-senate-budget-proposal-committee-presentation.pdf>).

Utilities

Senate Bill 4 Water and Waste Water Utilities Runoff (Sen. Ed Charbonneau (R-Valparaiso)) - This piece of legislation establishes a storm water management task force to study issues related to storm water management systems. Additionally, it provides for the task force to consist of: (1) two members of the senate; (2) two members of the house; and (3) other members appointed by the governor. It also provides that the Indiana finance authority (IFA) shall coordinate the executive branch activities related to the state's water programs. This legislation requires the IFA to divide Indiana into study areas and to hold annual meetings with the officers and employees of the water and wastewater utilities located in each study area. The option to voluntarily meet to determine area water and wastewater priorities, promote cooperation among the utilities, and consider other matters is also created. Every water utility, at least once in each calendar year, must perform an audit of its water distribution system to determine the causes of the water utility's "non-revenue water" (the difference between the amount of water entering the utility's distribution system and the amount of water received by the water utility's customers). In even-numbered years, this bill requires the results of the annual audit to be verified by an independent evaluator and reported to the IFA and requires the IFA to issue a report concerning the audit results. On Wednesday, this bill was signed by the Governor and will be enacted into law.

Education

House Bill 1008, Teacher Career Ladders (Rep. Robert Behning (R-Indianapolis)) - Makes changes to the requirements necessary for a school corporation to receive a grant from the teacher and student advancement grant program (program). Provides that charter schools may receive grants under the program. Provides that not later than July 1, 2020, and each July 1 thereafter, the department shall submit a report to the governor and the general assembly regarding the program. Repeals provisions relating to the career pathways and mentorship program. Repeals provisions relating to the Indiana new educator induction pilot program. This bill passed a third reading

in the Senate this week and will return to its originating chamber for concurrence or dissent.



Session Floor Highlights

House of Representatives

This week, all of the following bills of interest passed on third reading in the House and will be sent back to the Senate for concurrence before reaching the Governor's desk.

Senate Bill 516, Regulation of Hemp (Sen. Randy Head (R-Logansport))- Establishes the Indiana Hemp Advisory Committee to provide advice to the office of the state seed commissioner regarding Indiana's hemp laws. Prohibits the state seed commissioner (commissioner) from regulating a hemp commodity or product. Changes references from "industrial hemp" to "hemp" and amends the definition of hemp to conform to the federal definition. Allows for aerial inspection of hemp crops. Removes the limitation on the number of inspections that the state police department may conduct on a licensed hemp operation. Allows the commissioner to perform a criminal background check of an applicant for a hemp license or agricultural hemp seed production license. Establishes a uniform expiration date for hemp licenses and agricultural hemp seed production licenses. Requires a person who sells agricultural hemp to have a seed distribution permit. Provides that: (1) the commissioner may revoke the hemp license of a licensee who fails to cooperate with the commissioner, the state police, a federal law enforcement agency, or a local law enforcement agency in an inspection of the licensee's crop; and (2) the failure to cooperate constitutes probable cause for the commissioner, state police, federal law enforcement agency, or local law enforcement agency to search the premises of the licensee's hemp operation. Provides that if the state police department, a federal law enforcement agency, or a local law enforcement agency cooperates with the commissioner in the detention, seizure, or embargo of a hemp crop, the state police department, federal law enforcement agency, or local law enforcement agency is immune from civil liability for the detention, seizure, or embargo. Provides that a hemp grower shall reimburse the commissioner for the cost of testing conducted on the grower's crop. Allows the commissioner to order a hemp crop that is detained, seized, or embargoed for noncompliance to be destroyed by the owner. Subject to federal law, allows the commissioner to divert for processing a hemp crop that is detained, seized, or embargoed. Establishes requirements for a licensed handler to distribute clones and other non-seed propagative material. Provides that the commissioner may enter into agreements with laboratories selected by the Indiana state police department to perform testing of hemp samples. Requires any civil penalties collected under the hemp law to be transferred to the Indiana state department of agriculture and used for hemp marketing and research purposes. Provides that in addition to payment of any civil penalty imposed by the commissioner, a person who violates certain requirements shall reimburse the commissioner for any costs incurred by the commissioner for laboratory testing of

material pertaining to the violation. Allows negligent violations of the hemp law to be corrected without a penalty. Allows the commissioner to adopt emergency rules to comply with federal requirements. Establishes procedures by which the commissioner shall apply to the United States Department of Agriculture for approval of Indiana's hemp regulation. Requires a person who sells hemp to: (1) be licensed in Indiana and in the jurisdiction in which the hemp is grown; and (2) provide certain information to the buyer. Provides that hemp bud and hemp flower may be sold only to a licensed hemp processor and that the commissioner may assess a civil penalty of not more than \$2,500 for a violation. Provides that a person who knowingly or intentionally violates: (1) a term, condition, or requirement of a hemp license; or (2) a rule adopted under the hemp law; is subject to a civil penalty and possible license revocation. Provides that growing or handling hemp or selling hemp seed without a license is a Class A misdemeanor. Prohibits a local government unit from adopting or enforcing an ordinance that restricts or regulates the growth, production, or processing of hemp. Provides that the cannabinoid percent present in low THC hemp extract be certified. Provides that: (1) dealing in smokable hemp is a Class A misdemeanor; and (2) possession of smokable hemp is a Class C misdemeanor. Specifies that financial institutions are not subject to certain crimes concerning financing the manufacture or distribution of smokable hemp. Provides that civil penalties collected under the controlled substance laws shall be first used to reimburse the commissioner for any expenses incurred by the commissioner for laboratory testing of material pertaining to the violation, with the remainder deposited in the state general fund. Makes conforming changes. Removes expired provisions.

Senate Bill 563, Economic Development (Sen. Travis Holdman (R-Markle))-

Establishes the small business innovation voucher program (program) to provide vouchers to eligible small businesses to be used by the business to purchase research and development support or other forms of technical assistance and services from an Indiana institution of higher education or other authorized research provider. Provides that the Indiana economic development corporation (IEDC) shall administer the program. Provides that the program is subject to appropriation from the general assembly. Amends the definition of "sales" and adds a definition of "telecommunication services" and "broadcast services" under the state adjusted gross income tax provisions. Amends the provisions for determining when sales, other than sales of tangible personal property, are derived from sources within Indiana for purposes of determining the state adjusted gross income of corporations and nonresident persons. Provides that the IEDC may enter into an agreement for mutual economic assistance and a payment agreement with similar agency or body of a state bordering Indiana. Provides that a taxpayer (with certain exceptions) is not entitled to receive an industrial recovery tax credit for a qualified investment made after December 31, 2019. Amends the definition of "incremental income tax withholdings" for purposes of the economic development for a growing economy tax credit to accommodate nonresident employees covered by a mutual economic assistance agreement and payment agreement. Permits a taxpayer to claim an income tax credit for qualified investments made after a community revitalization enhancement district has expired if the taxpayer satisfies certain

conditions. Allows a taxpayer to assign all or part of a venture capital investment tax credit, subject to certain limitations. Amends the definition of "qualified investment" under the Hoosier business investment tax credit to include the purchase of: (1) retooled or refurbished machinery; (2) new energy conservation and pollution control equipment; and (3) new onsite digital manufacturing equipment. Adds state gross retail and use taxes to the types of taxes against which a taxpayer may claim a Hoosier business investment tax credit. Provides that an owner of a pass through entity may not claim the Hoosier business investment tax credit against the state gross retail and use tax paid by the owner, and that the credit may not be claimed against the state gross retail and use tax collected and remitted by a taxpayer as a retail merchant. Provides that the Hoosier business tax investment credit for new onsite digital manufacturing equipment for a tax credit is not to exceed 25% of the qualified investment and for a limited time period. Amends the headquarters relocation tax credit to extend the credit to an eligible business that: (1) acquired at least \$4,000,000 in venture capital within either six months prior to or six months after applying for the credit; and (2) commits to: (A) relocating its headquarters to Indiana; or (B) relocating the number of jobs that equal 80% of the business's payroll to Indiana. Provides that the total amount of headquarters relocation tax credits that may be approved in a state fiscal year for all eligible businesses that qualify for the tax credit under the new provision may not exceed \$5,000,000. Establishes the redevelopment tax credit (credit). Requires a taxpayer to apply to the IEDC for the credit. Provides that a taxpayer may claim a credit against state tax liability if: (1) the taxpayer makes a qualified investment for the redevelopment or rehabilitation of real property located within a qualified redevelopment site; and (2) the qualified investment is approved by the IEDC. Provides that the amount of the credit is equal to: (1) the qualified investment made by the taxpayer and approved by the IEDC in an agreement; multiplied by (2) the applicable credit percentage determined by the IEDC. Specifies the maximum applicable credit percentages that apply to qualified investments. Caps the redevelopment tax credit at \$50,000,000 per state fiscal year with certain exceptions. Allows a taxpayer to assign all or part of a redevelopment tax credit, subject to certain limitations. Authorizes the IEDC to include in an agreement for the tax credit provisions that require the taxpayer to repay all or part of a credit awarded over a period of years. Provides that an agreement for the redevelopment tax credit must include a repayment provision for the amount of any credit award that exceeds \$10,000,000. Requires the IEDC to establish measurements for evaluating the performance of the redevelopment tax credit and evaluate the tax credit program on a biennial basis. Requires the IEDC to collect data on the effectiveness of an assignment of both the venture capital investment tax credit and the redevelopment tax credit and report its findings to the legislative council before November 1, 2022. Changes the recertification period for certified technology parks from three years to four years. Provides that once a certified technology park reaches its cap, an additional amount equal to incremental income taxes shall be captured. Requires a redevelopment commission that has designated a third party manager or operator of a certified technology park to transfer to the manager or operator the amount owed within 30 days of receiving a distribution. Urges the legislative council to assign to an appropriate interim study committee the task of

studying the development of regional airports throughout Indiana. Makes an appropriation.

Senate Bill 179 Alcohol Regulation (Sen. Ron Alting (R- Lafayette))- Amends the definition of "entertainment" for purposes of alcohol regulation to include meals, beverages, and ground transportation provided in connection with entertainment. Provides that "entertainment complex" means a premises that is a site for the performance of musical, theatrical, or other entertainment and that either: (1) has audience seating for at least 200 individuals and is used by a nonprofit organization primarily for musical or theatrical entertainment; or (2) has permanent seating for at least 2,000 individuals and is located in a historic district or in a facility on the National Register of Historic Places. Permits an alcohol manufacturer, wholesaler, or retailer to provide free or discounted rides to a consumer for the purpose of furthering public safety. Specifies that the provision of a free or discounted ride may not be conditioned on the purchase of an alcoholic beverage.

Senate

The following bills passed on third reading in the Senate this week and will now return to the House of Representatives for concurrence.

House Bill 1177, Township Government Issues (Rep. Cindy Ziemke (R-Batesville)) - Requires a township to prepare a capital improvement plan for at least the ensuing three years if the balance in certain capital improvement funds in the preceding year exceeds both of the following: (1) 150% of the township's annual budget estimate. (2) \$200,000. Prohibits the township from collecting property taxes for certain capital improvement funds in the ensuing year unless the township has adopted a capital improvement plan. Allows a township to make a onetime transfer of an excess balance or part of an excess balance between township funds. Provides that the transfer may not be completed until after the township adopts a capital improvement plan, if the township is required to adopt a capital improvement plan. Requires the transfers must be completed not later than September 1, 2020. Provides that if an eligible municipality petitions an adjacent township to accept the transfer of the territory of the eligible municipality that is within the transferor township, the legislative body of the adjacent township must accept transfer of the territory of an eligible municipality within two years (instead of one year) after the legislative body receives the petition. Repeals a provision that prohibits the transfer of territory from taking effect in the year before a federal decennial census is conducted.

House Bill 1214, Construction Managers as Constructors (Rep. Jerry Torr (R-Carmel))- Repeals a provision in the construction manager as constructor statute that establishes a time period for public agencies (other than state educational institutions) to use the construction manager as constructor statute. Provides that for purposes of the construction manager as constructor statute, the term "public agency" includes a public library and the health and hospital corporation.

House Bill 1447, Financial Institutions and Consumer Credit (Rep. Woody Burton (R-Greenwood)) - Makes various changes to the statutes concerning: (1) first lien mortgage lenders; (2) persons licensed under the Uniform Consumer Credit Code (UCCC); (3) rental purchase agreements; (4) debt management companies; (5) banks; (6) credit unions; (7) pawnbrokers; and (8) money transmitters. Repeals a provision in the statute concerning rental purchase agreements that specifies that any up-front payment made by the lessee: (1) must be treated as an initial rental payment; (2) is subject to the disclosure requirements under the statute; and (3) may be in a sum larger than a regular rental payment. Prohibits leasing of, and rental purchase agreements involving, live domestic animals. Repeals a provision in the UCCC that provides that civil proceeding advance payment transactions (CPAP transactions) are subject to the UCCC. Strikes all provisions concerning CPAP transactions from the UCCC. Repeals provisions in the UCCC that define certain terms relating to CPAP transactions. Moves language in the UCCC applicable to the licensing of civil proceeding advance payment providers to the existing statute concerning civil proceeding advance payments and makes conforming amendments

Please feel free to contact any member of our legislative team should you have questions regarding the happenings in the Indiana General Assembly!

Brian Burdick, Partner

Office: (317) 231-7393

Email: brian.burdick@btlaw.com

Joe Loftus, Partner

Office: (317) 231-7213

Email: joseph.loftus@btlaw.com

Heather Willey, Partner

Office: (317) 231-6448

Email: heather.willey@btlaw.com

Sabra Northam, Associate

Office: (317) 231-7323

Email: sabra.northam@btlaw.com

Jacob German, Associate

Office: (317) 231-7538

Email: Jacob.German@btlaw.com

Jacob Bonifield, Associate

Office: (317) 231-7820

Email: Jacob.Bonifield@btlaw.com

Patrick Stone, Legislative Intern

Office: (317) 231-6419

Email: Patrick.stone@btlaw.com

Jordan Zakery, Legislative Intern

Office: (317) 231-6145

Email: Jordan.zakery@btlaw.com