



## Legislative Update

### 121<sup>st</sup> General Assembly

Friday, April 19, 2019

#### Week 15 Overview

The fifteenth week of session was filled with activity. Monday and Tuesday were the third reading deadlines for the House and Senate respectively. Conference Committees began on Monday and were scheduled throughout the week. Bills, amended in the opposite chamber, now contain language not yet approved by the first chamber. To become law, the exact language has to be approved in both houses to move on to the governor's desk.

Amended bills return to the first chamber where the author has a choice of concurring and agreeing with the amended language and putting the bill with amended language to a vote in the chamber, or dissenting and opposing the changes. In cases of dissent, a conference committee, comprised of one representative from each caucus, is created to negotiate a compromise.

The end result of the negotiations entered into a Conference Committee Report, which must be signed by each conferee and then put up for a vote in each chamber. Language contained in Conference Committee reports not approved by both chambers, before Sine Die, will die. That is why this part of session is often referred to as, "Death Watch." Conference Committee reports approved by both chambers are engrossed and the "enrolled act" is sent to the governor's desk. As a reminder, April 29<sup>th</sup> is the last day of session.

#### Points of Interest

##### *House Bills Signed by the Governor this Week*

*House Bill 1029, Prescription Drug Pricing Study Committee (Rep. Robin Shackelford (D-Indianapolis))* - Urges the legislative council to assign to the interim study committee on public health, behavioral health, and human services the task of studying issues consumers face related to prescription drug pricing, access, and costs.

*House Bill 1094, Ambulance Service Program Membership (Rep. Shane Lindauer (R-Jasper))* - Increases from one year to five years the maximum period permitted for membership in an ambulance service program for the program to be exempt from regulation as an insurance product.

House Bill 1199, Mental Health Professionals (Rep. David Frizzell (R-Indianapolis))- Makes changes to the contact hours required for licensure in marriage and family therapy services. Removes references in behavioral health and human services licensing law to certified health care professionals. Specifies that the statutes concerning behavioral health and human services professionals may not be construed to limit addiction counseling performed by certain students, interns, and trainees studying in certain institutions.

The new law requires an individual who is licensed as an addiction counselor or a clinical addiction counselor to:

- (1) display a counselor license or a clear copy of a counselor license at each location where the addiction counselor or clinical addiction counselor regularly practices; and
- (2) include certain information on the individual's professional marketing material.

It also changes certain educational and clinical experience requirements for a licensed addiction counselor and a licensed clinical addiction counselor.

House Bill 1517, Charity Gaming (Rep. Ben Smaltz (R-Auburn)) - Repeals the current charity gaming article and replaces it with a reorganized and revised charity gaming article. Raises the prize limits for when a qualified organization is not required to obtain a license for an allowable activity.

The new law consolidates the current license types into an annual activity license, single activity license, convention raffle license, and annual affiliate license. Creates an expedited application processing fee, and repeals the door prize limits and qualified drawings. Renames the comprehensive charity gaming license to the annual affiliate license. Revises fee tables for license renewals.

House Bill 1406, Water Infrastructure Assistance Fund and Program (Rep. Ed Soliday (R-Valparaiso))- Provides that money from certain sources in the water infrastructure assistance fund (fund) is continuously appropriated for the purposes of the law concerning the water infrastructure assistance program.

This new law authorizes the authority to establish:

- (1) the interest rate; or
- (2) parameters for establishing the interest rate; on each loan made from the fund.

Provides that a participant, to receive a loan, grant, or other financial assistance from the fund:

- (1) must have an asset management program; and
- (2) must demonstrate to the authority that it has a plan to participate with one or more other participants in cooperative activities.

Provides that a participant, after receiving a loan or grant from the fund, must maintain its asset management program:

- (1) as long as the loan remains unpaid; or
- (2) during the useful life of the asset financed with the loan or grant.

Requires a participant, if appropriate, to conduct or participate in efforts to determine and eliminate the causes of non-revenue water in its water distribution system. Requires the authority to establish a project prioritization system and project priority list for the purposes of awarding loans and grants from the fund, and that the authority to set aside 40% of the fund for purposes of providing grants, loans, and other financial assistance to or for the benefit of utilities serving less than 3,200 customers.

Authorizes the authority to provide advisory services to participants in connection with loans from the fund. Provides that, if appropriate, the authority shall require a participant receiving a loan or other financial assistance from the fund to establish and maintain sufficient user charges, fees, taxes, special assessments, or revenues to:

- (1) operate and maintain; and
- (2) pay the obligations of; its water or wastewater collection and treatment system.

Authorizes the authority to make loans or provide other financial assistance from the fund to or for the benefit of a participant to establish guaranties, reserves, or sinking funds or for other purposes. Authorizes the authority, as an alternative to making loans or providing other financial assistance to participants, to use the money in the fund to provide a leveraged loan program and other financial assistance programs to or for the benefit of participants.

*House Bill 1332, Marion County Magistrates (Rep. Mike Speedy (R-Indianapolis))*- Allows the Marion County superior courts to appoint 24 full-time magistrates after December 31, 2019, not more than 12 of whom may be from the same political party.

### ***Senate Bills Signed by the Governor this Week***

*Senate Bill 4 Water and Wastewater Utilities and Runoff (Sen. Ed Soliday (R-Vaparaíso))*- Establishes a storm water management task force to study issues related to storm water management systems. 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.

Requires the task force to issue a report setting forth its findings and recommendations not later than December 1, 2019. Provides that the Indiana finance authority (IFA) shall coordinate the executive branch activities related to the state's water programs. Prescribes the duties of the authority in serving in this role. 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. Authorizes the utilities within a study area to meet voluntarily to determine area water and wastewater priorities, promote cooperation among the utilities, and consider other matters.

Requires biennial reports from the utilities of each study area and from the IFA on the cooperative activities of the utilities. Provides that a utility applying to the IFA for a loan, a grant, or other financial assistance must demonstrate that its officers and employees have participated in study area activities. Requires every water utility, at least once in each calendar year, to 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, 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.

Specifies that:

- (1) customer specific data, including information excluded from public access under Indiana's access to public records act; and
- (2) a required cybersecurity plan; submitted in connection with an application for a permit for a public water system or a wastewater treatment plant is exempt from the requirement that certain required analyses and plans must be made publicly available. Amends the definition of "customer lead service line improvement".

*Senate Bill 22, Pension Matters (Sen. Phillip Boots (R-Crawfordsville))*- Makes additional conforming changes with previous legislation for the purpose of allowing a retired member of PERF or TRF to make partial withdrawals from the member's annuity savings account. Rephrases provisions concerning the election to begin receiving PERF or TRF benefits while employed that applies to certain elected officials and other employees who have attained the age of 70. Rephrases the method for calculating service credit for leaves of absence taken by PERF members.

Provides that money in the pension relief fund may be used for reasonable administrative expenses approved by the Indiana public retirement system. Rephrases certain provisions in the statutes governing the public employees' defined contribution plan and the teachers' defined contribution plan to remove references to the annuity savings accounts in PERF and TRF, which are no longer used to implement the two defined contribution plans.

Adds the public employees' defined contribution plan and the teachers' defined contribution plan to the list of public pension and retirement funds that comprise the Indiana public retirement system. Provides that assets of the judges' retirement system and the prosecuting attorneys retirement fund are exempt from legal process and that a member may assign benefit payments only for certain medical insurance premiums and association dues for certain associations. Specifies that any

postretirement benefit increase to the PERF part of a prosecuting attorney's retirement benefit has no effect on the part of the retirement benefit that is paid from the prosecuting attorneys retirement fund.

Makes clarifying additions to certain provisions of the 1977 police officers' and firefighters' pension and disability fund relating to the purchase of service credit by or on behalf of members. (The introduced version of this bill was prepared by the interim study committee on pension management oversight.)

Senate Bill 156, Fire Protection District Per Diems (Sen. Lonnie Randolph (D-East Chicago))- Increases the maximum amount (from \$20 to \$100) that a member of the board of fire trustees of a fire protection district may receive for each day that the member devotes to the work of the district.

Senate Bill 192, Nonconsensual Pornography (Sen. Mike Bohacek (R-Indianapolis))- Defines "intimate image" and creates a civil cause of action against a person who discloses an intimate image without the consent of the individual depicted in the intimate image.

Provides that a prevailing plaintiff may recover the greater of:

- (1) economic and noneconomic damages; or
- (2) statutory damages not to exceed \$10,000; plus attorney's fees, court costs, and other relief, including injunctive relief.

It also establishes criteria to be used by the trier of fact in determining damages. Provides that an interactive computer service may not be liable for disclosing nonconsensual pornography.

Senate Bill 271, E-Liquid Container Labeling (Sen. Randy Head (R-Logansport))- Eliminates a state requirement that an e-liquid manufacturer or a closed system vapor product manufacturer include certain information on an e-liquid container. Removes a duplicative provision that requires the label of an e-liquid container to indicate if the product contains nicotine.

Senate Bill 375, Collecting Solid Waste Management District Fees (Sen. Rick Niemeyer (R- Lowell))- Amends the solid waste management district law and the local government law to provide that, after June 30, 2019, a unit of local government may not enact an ordinance requiring a solid waste hauler or a hauler of recyclable materials to collect solid waste management fees and remit the fees to the board of a solid waste management district or a unit of local government



## Session Floor Highlights

### ***House of Representatives***

The following bills have passed third reading of the Senate and have a concurrence vote in the House of Representatives. They will now go to Governor Holcomb's desk for signature or veto.

#### *House Bill 1177, Township Government Issues (Rep. Cindy Ziemke (R-Batesville))*

This piece of legislation 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; and
- (2) \$200,000.

It 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.

It also allows a township to make a one-time transfer of an excess balance or part of an excess balance between township funds, and 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.

It 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.

*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 1347, Municipally Owned Utilities (Rep. Woody Burton (R-Greenwood))*

Provides that all rates, charges, and other fees for services rendered by a municipally owned utility (other than services rendered by a municipally owned sewer utility or by a department of public utilities for a consolidated city) to property occupied by someone other than the owner are payable by the person occupying the property if the account or other customer or billing records maintained by the utility for the property indicate that:

- (1) the property is occupied by someone other than the owner; and
- (2) the person occupying the property is responsible for paying the rates, charges, and fees.

Provides that upon applying for utility service from a municipally owned utility, the person occupying the property shall provide the utility with the name and contact information of the owner or manager of the property. This bill specifies that rates, charges, and fees assessed by a municipally owned utility with respect to property occupied by someone other than the owner do not constitute a lien against the property.

Specifies that these provisions do not:

- (1) prohibit a municipal legislative body from imposing any requirement to:
  - (A) ensure payment by; or
  - (B) the creditworthiness of; the person occupying the property; or
- (2) abrogate or limit the authority of the owner of a multi-unit building to engage in electrical sub metering.

House Bill 1473, Indiana Bond Bank (Rep. Greg Steuerwald (R-Avon))- Allows the Indiana bond bank to require certain entities to establish separate reserve accounts as additional security in connection with the issuance of bonds or notes.

Allows and establishes terms and procedures for certain entities to assign or otherwise transfer a future stream of revenue to the Indiana bond bank or certain other entities to obtain funding.

Establishes conditions under which the state board of finance may sell, transfer, or liquidate agreements that evidence the state's right to make deductions from state tuition support to pay advances from the common school fund under the school corporation and charter school safety advance program.

It also provides that the state board of education must report to the budget committee each year on any defaults on the repayment of advances from the common school fund by charter schools that have closed or otherwise ceased operations.

Requires the department of local government finance to notify the Lake County auditor of the estimated and certified tax revenue that will be withheld from revenue allocated for economic development purposes for certain civil taxing units and distributed to the secretary-treasurer of the northwest Indiana regional development authority (authority).

Requires the auditor of state to withhold local income tax revenue from the revenue allocated for economic development purposes for certain civil taxing units in Lake County and distribute it to the secretary-treasurer of the authority. And finally, it provides for distribution of certain amounts collected by the authority if a full funding grant agreement is not entered into for the West Lake corridor project.

House Bill 1548, Medicaid Advisory Committee (Rep. Cindy Kirchhofer (R-Beech Grove))- Adds appointments by the Indiana Association of Health Plans and the Indiana Primary Care Association to the Medicaid advisory committee (committee).

Increases the membership of the committee by providing for the president pro tempore of the senate and the speaker of the House of Representatives to each appoint six members (instead of one member). Provides that three of the members appointed by the president pro tempore and three of the members appointed by the speaker shall serve on a standing fiscal subcommittee of the committee. Requires that three of the members appointed by the speaker of the House of Representatives and three of the members appointed by the president pro tempore be members of the minority party.

Requires the committee to create a standing fiscal subcommittee. Provides that subcommittees of the committee may convene as often as needed. Requires the committee to review, study, and make advisory recommendations concerning certain subjects before July 1, 2021.

### ***Senate***

The following bills have passed third reading of the House of Representatives and have either passed a concurrence vote in the Senate or were not amended in the second chamber. They will now go to Governor Holcomb's desk for signature or veto.

*Senate Bill 480, Medicaid Non-Emergency Medical Transport (Sen. Vaneta Becker (R-Evansville))*- Sets forth requirements for brokers of nonemergency medical transportation under the Medicaid fee-for-service program. Establishes the nonemergency medical transportation commission (commission) and sets forth duties of the commission. Requires the office of the secretary of family and social services to prepare before October 1, 2019, a report concerning nonemergency medical transportation Medicaid claims and submit the report to the commission.

*Senate Bill 498, Mobile Integration Healthcare (Sen. Karen Tallian (D-Portage))*- Provides that the office of the secretary of family and social services may reimburse certain emergency medical services provider agencies for covered services provided to a Medicaid recipient as part of a mobile integration healthcare program.

This legislation amends the definition of "emergency medical services" to include transportation services, acute care, chronic condition services, or disease management services as part of a mobile integration healthcare program.

Provides that the emergency medical services commission (commission), in consultation with the state department of health, may develop a mobile integration healthcare program and approve mobile integration healthcare program applications.

The bill also creates requirements for the commission concerning the mobile integration healthcare program. Provides that the commission may establish and administer a mobile integration healthcare grant and establishes the mobile integration healthcare grant fund.



**Please feel free to contact a 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](mailto:brian.burdick@btlaw.com)

**Joe Loftus, Partner**

Office: (317) 231-7213

Email: [joseph.loftus@btlaw.com](mailto:joseph.loftus@btlaw.com)

**Heather Willey, Partner**

Office: (317) 231-6448

Email: [heather.willey@btlaw.com](mailto:heather.willey@btlaw.com)

**Sabra Northam, Associate**

Office: (317) 231-7323

Email: [sabra.northam@btlaw.com](mailto:sabra.northam@btlaw.com)

**Jacob German, Associate**

Office: (317) 231-7538

Email: [Jacob.German@btlaw.com](mailto:Jacob.German@btlaw.com)

**Jacob Bonifield, Associate**

Office: (317) 231-7820

Email: [Jacob.Bonifield@btlaw.com](mailto:Jacob.Bonifield@btlaw.com)

**Patrick Stone, Legislative Intern**

Office: (317) 231-6419

Email: [Patrick.stone@btlaw.com](mailto:Patrick.stone@btlaw.com)

**Jordan Zakary, Legislative Intern**

Office: (317) 231-6145

Email: [Jordan.zakary@btlaw.com](mailto:Jordan.zakary@btlaw.com)