



Legislative Update

121st General Assembly

Friday, April 26, 2019

End of Session Overview

Welcome to the final legislative update of the session. We reached Sine Die Wednesday night with the legislature adjourning for the year. It was a great privilege for our team to have represented you this session. This session was a long session, with legislators working to reconcile competing priorities in the budget and additional bills spanning a wide range of topics. After a late night finish, we saw the major gaming bill and budget pass both chambers to reach the Governor's desk.

Points of Interest

Biennial Budget

House Bill 1001, State Budget (Rep. Todd Huston (R-Fishers))- On Wednesday night, the Indiana General Assembly approved the state's \$34.6 billion budget for the next two years. The House voted 67-31 and the Senate voted 41-8 to approve it. It will now be signed by Governor Eric Holcomb.

Among many priorities, this budget attempts to fund areas of interest including K-12 Education, the Department of Child Services (DCS), and the Capital Improvement Board, (CIB)

The budget increases school funding by 2.5% each year, which will provide \$539 million in additional funding for K-12 education. The Teacher Appreciation Grant program and the Secured School Safety Grant program will receive \$74 million in funding to assist their respective needs.

During the next two fiscal years, the Indiana Department of Child Services' budget will jump by more than a half-billion (\$286 million a year). This initiative is intended to assist in staff retention and with managing the large caseload of DCS.

The budget also includes language to assist the Capital Improvement Board (CIB) by closing a loophole in online sales and hotel tax collection. This will generate a projected annual gain of 1.6 to 2.3 million dollars for the CIB within the next 25 years.

Gaming

House Bill 1015, Various Gaming Matters (Rep. Jerry Torr (R-Carmel))- The major gaming bill of session received the legislative stamp of approval Wednesday, and will now move to the Governor's desk. The legislation creates a framework for legal sports betting in the state of Indiana. The bill also creates a new regulatory commission to oversee this new industry.

Additionally, we will see one casino license move from northwest Indiana to Terre Haute. As part of the agreement the DNR will receive funding to renovate the historic West-Baden Hotel and Casino.

Criminal and Civil Law

Senate Bill 192, Nonconsensual Pornography (Sen. Mike Bohacek (R- Michigan City)) and Senate Bill 243, Nonconsensual Pornography (Sen. Aaron Freeman (R-Indianapolis)) will also be signed by the Governor. Both bills deal with the issue of nonconsensual pornography, with one bill providing a criminal remedy and another a civil remedy for victims.

The former bill (SB243) provides that a person who: (1) knows that an individual does not consent to the distribution of an intimate image of the individual; and (2) distributes the intimate image on the Internet; commits internet distribution of an intimate image, a Class A misdemeanor. A subsequent offense results in a class 6 felony. The civil bill (SB192) makes it actionable to recover up to \$10,000 and applicable attorney's fees.

Session Floor Highlights

The following are important pieces of legislation that successfully passed in both chambers. These bills were approved by the General Assembly this week and will now be presented to Governor Holcomb to sign into law.

House of Representatives

House Bill 1002, Career and Technical Education (Rep. Holli Sullivan (R-Evansville))- Makes various changes concerning the following:

- (1) The membership, duties, meetings, and deadlines of certain requirements concerning the governor's workforce cabinet (cabinet).
- (2) Eligibility and requirements regarding certain grants:
 - (A) from the skills enhancement fund; and
 - (B) under the next level jobs employer training grant program.

- (3) Eligibility for supplemental payment for certain teachers.
- (4) Requirements to renew a practitioner license or accomplished practitioner license.
- (5) Grant amounts, additional fund distributions (if funds are available), and the eligibility of instructor salary costs for grants and additional fund distributions under the work Indiana program.
- (6) Eligibility requirements to receive a high value workforce ready credit bearing grant.
- (7) Requirements regarding a student's graduation plan.

Establishes the career coaching grant program and fund. Provides that the cabinet shall receive, distribute, and account for all funds received for career and technical education under the Carl D. Perkins Vocational and Applied Technology Act.

Provides that, after June 30, 2019, a school corporation, school, or secondary school vocational program may employ an instructor who does not have a license if the instructor meets certain occupational and training requirements. Requires:

- (1) a public school to include a summary on implementing certain career curriculum in a public school's improvement plan;
- (2) the budget agency to estimate the costs incurred to implement the curriculum for each school corporation and submit a report regarding the costs; and
- (3) the department of education (department) to review the plans and assist schools in incorporating best practices.

Allows a governing body of a school corporation to include a postsecondary level career and technical education course in the high school curriculum of certain schools. Provides that a contract between a career and technical education center and a school or school corporation is a public record under Indiana's open door law. Provides that:

- (1) a school that has entered into an agreement for a joint program of career and technical education may add a new career and technical education course to its curriculum without being approved by the joint program board or the governing body overseeing the joint program if the course is being offered in partnership with certain entities; and
- (2) if the added career and technical education course is offered after June 30, 2018, the course is eligible for career and technical education funding.

Requires the Indiana economic development corporation to assemble and provide to the commission for higher education and the department of workforce development information concerning the economic benefits of residing and working in Indiana.

Provides for certification by the cabinet of an industry collaboration organization (ICO). Provides that an organization qualifies as an ICO if the organization meets certain qualification requirements. Provides that contributions to an ICO may be used by the ICO for the following purposes:

- (1) To support the development and implementation of high school graduation pathways.
- (2) To provide money to the ICO to establish and operate a career counseling program for students.
- (3) To enhance career and technical education and training programs.
- (4) To expand apprenticeships and work based learning opportunities.
- (5) To provide grants to schools to be used by the school to pay the transportation costs for students to attend an eligible training program.
- (6) To provide grants for any other course or program, if the course or program leads to the attainment of a specific employment related credential that documents the student's skills for employment success.
- (7) To partner with other ICOs, nonprofits, public foundations, or other entities to provide workforce related educational programs or training for students.

Requires that an ICO report certain information to the cabinet. Requires the cabinet to support an ICO in sharing and scaling best practices on a statewide basis by:

- (1) conducting an annual survey of the business, education, and community organizations participating in the ICO, in consultation with the management performance hub; and
- (2) convening the ICOs on an ongoing basis in collaboration with Indiana's statewide business and industry associations.

Provides that the cabinet shall annually compile lists of the:

- (1) industry sectors and geographic regions in which ICOs are operating, disaggregated by industry category and region; and
- (2) business, educational institutions, and community organizations affiliated with the ICOs established under this chapter, disaggregated by industry category and region.

Provides that a high school may count:

- (1) an approved work based learning course, program, or experience; or
- (2) an approved career and technical education course, program, or experience; as satisfying an Indiana diploma with a Core 40 with academic honors designation or another designation requirement.

Establishes the school accountability panel to study the topic of aligning school accountability with graduation pathways and recommend new indicators of school performance. Amends the definition of "work based learning course" for purposes of determining career and technical education funding. Provides that the commission for higher education, in consultation with the department of workforce development, shall consider a program's impact on public safety when determining which certificate programs are eligible for the high value workforce ready credit-bearing grant.

Requires, not later than July 1, 2020, the state board of education to adopt teacher licensing examinations to replace the teacher licensing examinations administered on July 1, 2019. Requires, not later than September 1, 2021, the department to implement the adopted teacher licensing examinations.

Requires the commission for higher education (commission) to establish, in coordination with the department of workforce development (department) and the Indiana economic development corporation (corporation), the Let Indiana Work for You program (program) to:

- (1) provide to colleges and universities information concerning workforce opportunities in Indiana and other benefits of residing and working in Indiana after graduating from the college or university; and
- (2) implement the program.

Provides that, if a college or university approves of the information under the program for distribution to students of the college or university, the:

- (1) commission, in coordination with the department and the corporation, shall provide the information to the college or university; and
- (2) college or university shall present in person or use other communication mediums to provide the information to students of the college or university.

Requires the corporation to assemble and provide to the commission and the department information concerning the economic benefits of residing and working in Indiana. Voids an administrative rule that requires a school corporation to ensure that a teacher of a secondary school vocational program is licensed by the department. Resolves a conflict between HEA 1074-2018 and HEA 1002-2018.

House Bill 1150, Monetary Awards for Exonerated Prisoners (Rep. Greg Steuerwald (R-Avon))- Defines "actually innocent" and specifies that a person whose conviction has been vacated and is actually innocent is entitled to compensation in the amount of \$50,000 for each year that the person was wrongfully incarcerated in the department of correction or a county jail, subject to certain conditions.

Establishes the exoneration fund (fund). Specifies that the criminal justice institute shall administer the fund and receive and process claims for compensation from the fund.

Establishes a statute of limitations. Specifies fund eligibility requirements. Provides that a person's:

(1) eligibility for; or

(2) receipt of;

proceeds from the exoneration fund does not prevent the person from applying for, enrolling in, or receiving the benefit of certain treatments, programs, or services if the person is otherwise eligible to receive the desired treatment or participate in the desired program or service.

Provides that a person is not entitled to compensation in connection with the wrongful conviction:

(1) if the person has previously received an award of damages in connection with the conviction;

(2) while the person has a pending case; or

(3) if the person does not execute a waiver.

Specifies that the criminal justice institute may pay compensation only to the wrongfully incarcerated individual or to a guardian on behalf of the individual, and not to:

(1) an estate;

(2) a fiduciary;

(3) a trust; or

(4) an assignee;

of the individual. Specifies that compensation from the fund is paid in equal sums over a five year period. Allows a person to appeal an adverse fund eligibility determination.

House Bill 1427, Local Government Matters (Rep. Daniel Leonard (R-Huntington))- Provides that, if a political subdivision publishes or submits to the department of local government finance's (DLGF) computer gateway a notice that contains an error or omission that inaccurately reflects the tax rate, tax levy, or budget actually proposed or fixed by the political subdivision by an amount that is less than 0.1%, the notice is a valid notice and the DLGF shall correct the error or omission.

Provides that the state board of accounts, instead of the budget agency, is to approve audits for regional development authorities and allows for private examiners to perform audits.

Excludes political subdivisions that do not have the power to impose property taxes from the requirement to upload a digital copy of certain contracts on the Indiana transparency Internet web site. Specifies the deadlines for county auditors to submit property tax settlement and distribution information to the DLGF. Repeals the electronic digital signature act.

Specifies the calculation of the acquisition cost of depreciable personal property acquired in like kind exchange for personal property tax purposes. Removes the provision in current law that requires the DLGF to be a party to any contract in which a county assessor employs professional appraisers as technical advisers for assessments.

Provides that the standard contract to employ professional appraisers is void if:

- (1) the appraiser is not certified at the time the contract is executed; or
- (2) the DLGF subsequently revokes the appraiser's certification.

Eliminates the permissive written demand to a county resident who is delinquent in the payment of personal property taxes during the period from May 10 to October 31. Changes the time period from at least 21 to 30 days for the county treasurer's notice of the sale of a mobile home.

Makes the filing deadlines for property tax deductions applicable to mobile homes and manufactured homes that are not assessed as real property the same as the filing deadlines for property tax deductions applicable to real property. Amends the definition of "owner" (for purposes of the property tax statutes) to delete the provision specifying that an owner of tangible property includes the holder of a tenancy for a term of years.

Requires county auditors to submit data on deductions applicable to the current tax year to the homestead property data base on or before March 15 of each year, in a manner prescribed by the DLGF. Specifies that if a penalty is imposed on a taxpayer for failing to declare on the taxpayer's tax return that the taxpayer is entitled to the exemption for business personal property, the county shall include the penalty on a property tax bill associated with the tax district in which the majority value of the taxpayer's business personal property within the county is located.

Eliminates (effective retroactive to July 1, 2017) several property tax deduction and credit reapplication requirements that were added by HEA 1450-2017 concerning unmarried taxpayers who married, married taxpayers who divorced, and taxpayers who came to own their property jointly or as tenants in common with another individual.

Provides that a person seeking a property tax exemption for property used for a charitable purpose may file an exemption application up to 30 days following the

statutory deadline for the exemption application if the person pays a late filing fee. Makes changes to the time frame for the board of tax review to conduct a hearing and issue a determination.

Requires that the budget notice that political subdivisions must publish on the DLGF's computer gateway must also include information concerning the percentage change between the current and proposed tax levies of each fund. Specifies that a political subdivision shall file the budget adopted by the political subdivision with the DLGF not later than five business days after the budget is adopted.

Authorizes the DLGF to adopt rules for procedures related to local government budgeting. Specifies that the adoption, amendment, or repeal of such a rule by the DLGF may not take effect before March 1 or after July 31 of a particular year.

Requires a political subdivision to adopt the needed changes to its budget, tax levy, or rate in a public meeting if the political subdivision's tax levy is increased by the DLGF to an amount that exceeds the amount originally advertised or adopted by the political subdivision.

Provides for an extension of time to submit a city's budget in the case of a veto after October 1. Provides that Highland Township in Greene County may increase its maximum township property tax levy for 2020 and thereafter. Provides that Taylor Township in Greene County may increase its maximum township property tax levy and its maximum fire protection and emergency services property tax levy for 2020 and thereafter. Allows Green Township in Hancock County to increase its maximum levy for the township's general fund to offset the reduction in the maximum levy that occurred beginning in 2003 that was based on the township's actual levy (levy banked amount).

Requires the DLGF to increase the North Harrison fire protection territory provider unit's maximum permissible ad valorem property tax levy for purposes of IC 36-8-19 for property taxes due and payable in 2020 if a petition requesting an increase is filed.

Provides that a civil taxing unit may not request permission to impose a property tax on account of revenue shortfalls, if the revenue shortfall preceded the most recent certified budget for the civil taxing unit by more than five years.

Requires a statement in the county treasurer's notice of intention to sell mobile homes that the county treasurer will apply for a court judgment against the mobile homes for an amount that is set by the county executive and that includes collection expenses. Provides that whenever no bid is received on a mobile home, the taxpayer who is delinquent in the payment of taxes causing the tax sale maintains ownership of the mobile home and liability for the delinquent taxes.

Repeals the statute providing for a county board of tax adjustment. Repeals provisions related to the county board of tax adjustment and the local budgeting process. Specifies that:

(1) rules adopted by the DLGF for the appraisal of real property may not apply to any appraisal contemporaneously being conducted under a county's reassessment plan; and

(2) rules adopted by the DLGF may first apply to the reassessment phase beginning in the following calendar year under a county's reassessment plan.

Requires a county that enters into a contract for computer software and with a software provider to upload the contract to the Indiana transparency Internet web site.

Specifies that for purposes of attributing the amount of a property tax deduction or exemption to the gross assessed value of a property:

(1) a deduction or exemption that is specific to an improvement shall be applied only to the assessed value allocation pertaining to that improvement; and

(2) to the extent that a deduction or exemption is not specific to an improvement, the deduction or exemption shall be applied in the order that will maximize the benefit of the deduction or exemption to the taxpayer.

Provides that the county executive (instead of the DLGF) may cancel any property taxes assessed against real property owned by a county, township, city, town, or body corporate and politic under certain circumstances. Removes local income tax economic development

Senate

Senate Bill 171, State and Local Administration (Sen. Travis Holdman (R-Markle))- Makes the filing deadlines for property tax deductions applicable to mobile homes and manufactured homes that are not assessed as real property the same as the filing deadlines for property tax deductions applicable to real property.

Repeals the coal conversion system property tax deduction, the coal combustion product property tax deduction, the recycled coal combustion byproduct personal property tax deduction, the aircraft property tax deduction, the intrastate aircraft property tax deduction, the Hoosier alternative fuel vehicle manufacturer investment income tax credit, and the local income tax option hiring incentive credit.

Extends the legislative services agency tax incentive review schedule from five to seven years. Provides that a redevelopment commission or other entity that creates a tax increment financing area shall file the resolution and supporting documents that create the tax increment financing area with both the county auditor in which the tax increment financing area is located and the department of local government finance within 30 days after the redevelopment commission or other entity takes final action on the resolution.

Provides that if a redevelopment commission or other entity that creates a tax increment financing area files the resolution and supporting documents with either the county auditor and the department of local government finance after the first anniversary of the effective date of the tax increment financing area, the county auditor shall compute the base assessed value of the tax increment financing area using the assessment date immediately preceding the later of the date on which the documents were filed with the county auditor or the date on which the documents were filed with the department of local government finance. Urges the study of the advisability of eliminating the mortgage property tax deduction and the advisability of increasing the homestead standard deduction.

Senate Bill 233, Business Personal Property Tax Exemption (Sen. Aaron Freeman (R-Indianapolis))- Provides that not later than 30 days prior to the filing date, the appropriate assessor shall provide notification to each person whose personal property is subject to assessment.

Increases, from \$20,000 to \$40,000, the acquisition cost threshold for the business personal property tax exemption. Specifies that a taxpayer who is eligible for a personal property tax exemption must include on the taxpayer's personal property tax return:

- (1) information concerning whether the taxpayer's business personal property within the county is in one location or multiple locations; and
- (2) an address for the location of the property.

Provides that the appropriate county officer designated by the county executive (rather than the assessor, under current law) is responsible for:

- (1) maintaining data files of the geographic information system characteristics of each parcel in the county as of each assessment date; and
- (2) submitting those files to the geographic information office of the office of technology.

Repeals provisions in current law that allow a county council to impose a local service fee on each person that has exempt business personal property because the business personal property does not exceed the acquisition threshold. Removes outdated provisions.

Senate Bill 516, Regulation of Hemp (Sen. Randall Head (R-Logansport))- Establishes the Indiana hemp advisory committee (committee) to provide advice to the office of the state seed commissioner (commissioner) regarding Indiana's hemp laws. Sunsets the committee on July 1, 2021. Prohibits the commissioner from regulating a hemp product. Changes references from "industrial hemp" to "hemp" and amends the definition of hemp. Adds a definition of "hemp product".

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 nonseed 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 cannabidiol percent present in low THC hemp extract be certified. Provides a criminal penalty for dealing, manufacturing, financing, or possessing smokable hemp. Specifies that financial institutions, agencies, and instrumentalities of the state or the United States 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.

Allows the court to defer judgment on a crime concerning smokable hemp and dismiss charges if certain conditions are met. Makes conforming changes. Removes expired provisions.

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

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