



# BARNES & THORNBURG LLP

## LEGISLATIVE UPDATE 123<sup>RD</sup> GENERAL ASSEMBLY

FRIDAY, APRIL 21, 2023




### Week Fifteen Overview

A busy 15<sup>th</sup>—and second to last—week of the legislative session concluded on Thursday afternoon. Monday, April 17<sup>th</sup> was the last day for Senate bills to advance out of the House, and Tuesday, April 18<sup>th</sup> was the last day for House bills to move out of the Senate. Both Chambers met for Session each day to debate and vote on bills, concur or dissent with amended bills, or to adopt conference committee reports.

With the *sine die* adjournment deadline of Saturday, April 29<sup>th</sup> approaching, lawmakers are resolving disputes among the two Chambers regarding amended bills in conference committees. As mentioned last week, conference committees serve as a forum of consolidation and negotiation. The four conferees—a Republican and Democrat from each Chamber—work in tandem to resolve differences among the Chambers and parties. If the four conferees get the bill into a state where they all support it, they sign the report and send it to both Chambers for approval. Conference committees will continue until the end of the legislative session.

Many bills are landing on Governor Holcomb's desk. On Thursday, the Governor signed 79 bills into law. To stay current on all bills the Governor signs, click [here](#). Expect more bills, including many priority bills that we have discussed since January, to find their way to the Governor's desk by the adjournment date.



### Monday and Tuesday 2<sup>nd</sup> and 3<sup>rd</sup> Reading Highlights

On Monday, the House passed several bills on 3<sup>rd</sup> reading and returned them to the Senate. Among these were SB 1, Behavioral Health Matters—Sen. Michael Crider (R – Greenfield), Chair, Homeland Security and Transportation; SB 7, Physician Noncompete Agreements—Sen. Justin Busch (R – Fort Wayne); and SB 325, Homestead Standard Deduction—Rep. Jeff Thompson (R – Lizton), Chair, Ways and Means. Across the hallway, Senators worked into the evening amending and discussing more than two dozen bills on 2<sup>nd</sup> reading. A number of key bills were amended, including HB 1001, State Budget—Sen. Ryan Mishler (R – Mishawaka), Chair, Appropriations. Dozens of amendments were filed but only a few were adopted.

A notable amendment includes Sen. Mark Messmer's (R – Jasper) Amendment #67, which directs at least 10% of the Indiana Economic Development Corporation's (IEDC) closing fund to counties with less than 50,000 residents—the majority of Indiana counties. On Tuesday, the Senate voted 40-10 to pass the bill and returned it to the House. Sen. David Niegodski (D – South Bend), was the lone Democrat who supported the bill, and Sen. Mike Young (R – Indianapolis) was the only Republican to vote against it.

## Concurrences and Conference Committee Highlights

With over 60 bills eligible for conference committee, lawmakers began discussing bills in conference committees on Monday. Highlights are included below.

**Tax and Fiscal:** After the Senate passed HB 1001 on Tuesday, the House dissented from the Senate amendments. On Thursday, a conference committee for the budget was held. Sen. Ryan Mishler (R – Mishawaka), the Senate Republican conferee, noted a number of lawmakers stayed at the Statehouse until nearly midnight on Wednesday as they worked on provisions of the budget. Sen. Mishler said lawmakers have the budget in a “good spot.” Informing that late night discussion was news about the State's revenue forecast. On Wednesday, lawmakers received important fiscal news—the State is projected to receive \$1.5 billion more in revenue than expected. While lawmakers acknowledged the good news for the State, they noted it made the budget process more difficult as they must determine if and how they spend the additional resources.

In the conference committee, several stakeholders made their last argument for funding in the budget. Testimony ranged from restoring the Governor's recommended funding on trails and land conservation, to increasing Medicaid reimbursement for home health services and pediatric dentists. After hearing testimony from stakeholders, conferees and advisors discussed the budget and what they would like to see be added. Lawmakers from both sides of the political aisle advocated for funding a 13<sup>th</sup> Check to Hoosiers on state pension plans. Rep. Chris Judy (R – Fort Wayne) noted how critical funding for SB 1, Behavioral Health Matters is, and Rep. Peggy Mayfield (R – Martinsville) suggested the committee fund the Department of Child Services (“DCS”) with enough money so that it can adequately reimburse the providers the agency contracts with to care for Hoosier children. But it was Rep. Ed Delaney (D – Indianapolis) who may have had the best line of the day: he noted the State budget should aim to “invest in people.” The budget—the most important bill of this session—must be finalized and passed by adjournment.

Other fiscal bills receiving conference committee hearings include: HB 419, State Tax Matters—Sen. Travis Holdman (R – Markle), Chair, Tax and Fiscal Policy; SB 3, State and Local Tax Review Task Force—Sen. Holdman; HB 1454, Dept. of Local Government Finance—Rep. Craig Snow (R – Warsaw), and HB 1499, Various Tax

Matters—Rep. Jeff Thompson (R – Lizton), Chair, Ways and Means. Comments on these bills were brief. Committee reports should be available next week.

Both Chambers concurred with several tax and fiscal bills on their respected floors. On Wednesday, the House concurred 89-0 with the Senate amendments to HB 1034, Income Tax Exemption for Military Pay—Rep. Randy Frye (R – Greensburg), Chair, Veterans Affairs and Public Safety. HB 1034 exempts military pay for members of an active or reserve component of the armed forces of the United States or the National Guard from the individual income tax. This is a change from current law, which provides an individual income tax exemption for the period the member is mobilized and deployed. The bill was amended to make the exemption effective in 2024 by Sen. Scott Baldwin (R – Noblesville), Chair, Insurance and Financial Institutions.

In the Senate, lawmakers concurred with the House amendments to SB 417, Various Tax Matters—Sen. Baldwin (R – Noblesville). The bill addresses three main aspects. First, the bill makes certain changes to the nonprofit organization sales tax exemption threshold after which nonprofit organizations are required to collect state sales tax. Second, the bill authorizes a county to impose a local income tax (LIT) rate for county staff expenses of the state judicial system in the county, provided that the expenses paid from the LIT revenue may not comprise more than 50% of the county's total budgeted operational staffing expenses related to the state judicial system in any given year. And third, the bill specifies a three business day grace period following the postmark date of a document during which the Department of State Revenue will consider the document received to be timely filed for purposes of a due date.

**Health:** Mental health, public health and public safety have been constant themes of this year's legislative session. HB 1006, Mental Health Programs—Rep. Greg Steuerwald (R – Avon), is a priority bill that combines each of those themes into one bill. The bill was heard in conference committee on Wednesday. The conference committee report altered the bill, which now provides that an attestation signed by a physician for use in an application for detention may be based on an examination conducted by an advanced practice registered nurse or a physician assistant. Further, the report specifies that an individual may not be found in need of temporary or regular commitment unless: (1) the physician who signed the attestation in the detention hearing; or (2) a physician who has personally examined the individual testifies at the final hearing. The House adopted the conference committee report on Thursday.

HB 1004, Health Care Matters—Rep. Donna Schaibley (R – Carmel) was heard in conference committee on Thursday. Rep. Schaibley noted that language from HB 1003, Health Matters—Rep. Craig Snow (R – Warsaw), will be incorporated into the final version of the bill. Although the conference committee report has yet to be released, Rep. Schaibley noted language regarding the health reimbursement arraignment, payer affordability penalty fund, site of service, and claims data transparency, among other provisions, will be added to HB 1004.

Other bills impacting healthcare and insurance that received a hearing include: HB 1329, Insurance Matters—Rep. Matt Lehman (R – Berne); HB 1017, Prescription Drug Donation Repositories—Rep. Steve Bartels (R – Eckerty); SB 400, Health Care Matters—Sen. Liz Brown (R – Fort Wayne), Chair, Judiciary; HB 1342, Direct Support Professionals—Rep. Julie Olthoff (R – Crown Point); and SB 252, Contraceptives and Pregnancy Matters—Sen. Shelli Yoder (D – Bloomington).

On Thursday, the House concurred with the Senate on a handful of bills impacting healthcare, including three all authored by Rep. Brad Barrett (R – Richmond), Chair, Health and Provider Services: HB 1457, Public Health Matters; HB 1460, Professional and Occupational Licensing; and HB 1461, Long Term Services.

Also on Thursday, the Senate filed a motion to dissent from the House’s amended version of SB 4, Public Health Commission—Sen. Ed Charbonneau (R – Valparaiso), Chair, Health and Provider Services. A conference committee will likely be scheduled for next week.

**Education:** Several education bills were heard in conference committees this week. On Monday, the conference committee for HB 1382, Robotics Programs—Rep. Chuck Goodrich (R – Noblesville) met. The conference committee report amended the bill, which now establishes (rather than authorizing the establishment of) the robotics competition program to provide grants to eligible robotics competition teams in order to expand opportunities to increase interest and improve skills in science, technology, engineering, and mathematics through participation in competitive robotics programs. The bill provides a procedure for eligible teams to apply to the Department of Education to receive a grant from the Robotics Competition Program Fund. To ensure the program is open to all, the bill provides guide lines to: award grants to eligible teams for allowable expenses, and accommodate the participation of students with disabilities on eligible teams or in robotics competitions. On Thursday, the House adopted the conference committee report 91-0.

On Wednesday, SB 72, Education Matters—Sen. Jean Leising (R – Oldenburg) was heard in conference committee. The bill requires schools to report to the Department of Education as to whether they provide instruction on cursive writing. SB 72 was amended in the House to include language regarding the allowing of retaking virtual courses and a provision requiring the Department to study emerging technologies and the skills it requires. These House amendments, however, were ruled non-germane and are being removed from the bill. SB 369, External Automated Defibrillator Requirements—Sen. Linda Rogers (R – Granger), Chair, Pensions and Labor, was also heard in conference committee on Wednesday. The committee intends to add language that specifics schools can use the school safety fund for defibrillators. The committee will also add language to the bill that will create a statewide survey for all schools to fill out indicating if and how many AEDs they have on site.

Other education bills that received a conference committee include HB 1511, Higher Education Scholarships, Grants, and Cost Exemptions—Rep. Mike Speedy (R – Indianapolis). The committee noted that the final version of the bill will go back to the version that originally passed the House. SB 100, Education Matters—Sen. Jeff Raatz (R – Richmond), Chair, Education and Career Development, was also heard. The Senate ruled the language allowing an 8<sup>th</sup> grade algebra class to count towards high school credits as non-germane. Rep. Bob Behning (R – Indianapolis) noted he hopes to find a home for his language, and indicated his bill, HB 1591, Education Matters, may be the vehicle for it. Lastly, HB 1002, Career Services—Rep. Chuck Goodrich (R – Noblesville), was heard on Thursday. Rep. Goodrich noted that the final version of the bill will resemble the House passed version, except for an amendment that establishes career coach counselors and an amendment offering professional development opportunities outside the classroom in areas of business and industry for teachers.

The House concurred with several bills coming from the Senate. On Wednesday, the House concurred 89-1 on HB 1499, 21<sup>st</sup> Century Scholars Program—Rep. Earl Harris Jr. (D – East Chicago). A priority for Governor Holcomb, Rep. Harris’ bill requires the Commission for Higher Education and the Department of Education to identify students who meet the requirements to participate in the 21<sup>st</sup> Century Scholars Program and notify them and their parents or guardians. On Thursday, the House concurred 92-0 on HB 1492, School Safety—Rep. Wendy McNamara (R – Evansville), Chair, Courts and Criminal Code. The bill among other things, makes changes to the permissible uses of the Indiana Secured School Fund and requires each school corporation and charter school to establish a Safe School Committee.

Other bills the House concurred with include HB 1558, Science of Reading—Rep. Jake Teshka (R – South Bend); HB 1635, Various Education Matters—Rep. Bob Behning (R – Indianapolis), Chair, Education; and HB 1637, Teacher Education Scholarship Programs—Rep. Behning. All of the education bills detailed herein are on track to land on the Governor’s desk.

**General Reform:** On Wednesday, HB 1212, Privacy Protections for Nonprofit Organizations—Rep. Mike Karickhoff (R – Kokomo) was heard in conference committee. The committee is working to refine, among other provisions, language from Sen. Liz Brown’s (R – Fort Wayne), Chair, Judiciary, floor amendment that added certain disclosure exceptions for nonprofit hospitals.

On Thursday, HB 1623, Administrative Rulemaking—Rep. Steve Bartels (R – Eckerty), was heard in conference committee. While the committee is still tweaking language with the Legislative Services Agency (“LSA”), the committee intends to incorporate HB 1200, Government Reform Task Force, also authored by Rep. Bartels, into the bill.

**Economic Development:** On Wednesday, HB 1106, Mine Reclamation Tax Credit—Rep. Shane Lindauer (R – Jasper), was heard in conference committee. The committee is working on several changes to the current bill, including a retroactive effective date of January 2023 and an increase in the credit per investment and for the yearly program cap.

**Judiciary and Criminal Justice:** On Wednesday, HB 1466 Juror Compensation—Rep. Michelle Davis (R – Whiteland) was heard, with the committee indicating it is removing the “fixed opinion” language and replacing the original language of the code. HB 1195, Indiana Criminal Justice Institute Victim Services Division—Rep. Wendy McNamara (R – Evansville), Courts and Criminal Code, was also heard. The committee is working on a minor technical change (a may to a shall) to ensure the ICJI can still compete for grants. The committee is also incorporating HB 1194, Competency to Stand Trial, also authored by Rep. McNamara, into the bill. HB 1194 provides that certain licensed individuals may examine a defendant and testify as to whether the defendant can understand the criminal proceedings and assist in the preparation of the defendant's defense.

### Looking Ahead

Next week is the last of this legislative session. By law, the legislature must adjourn *sine die* no later than Saturday, April 29<sup>th</sup>. They may, however, adjourn earlier in the week depending on how quickly bills move out of conference committee for a vote on the House or Senate floor.

Your weekly Bill Trackers have been updated and only include bills that have advanced from the 2<sup>nd</sup> chamber. But note language from bills that passed the 1<sup>st</sup> chamber but not the 2<sup>nd</sup> chamber is still eligible for incorporation in conference committees. Please use the live link sent in your weekly B&T Point email to keep up to date on your bills.

**Thank you for allowing us to work with you during the 2023 legislative session. Please feel free to contact a member of our legislative team should you have questions, need full copies of bills or amendments, or have any questions on matters pending before the Indiana General Assembly.**

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