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| **Faegre Drinker**  2023 Indiana Legislative Update – 2/24/23  **BOMA Indianapolis** | imagesCA461PF5.jpg |

***February 24, 2023***

We are almost halfway through the 2023 legislative session!

This week, the House Ways and Means Committee adopted the House Republican’s budget amendment, which included accelerated tax cuts, increased education spending, new investments in healthcare, and new funds for economic development projects. After a few amendments on the House floor, the budget passed the House on 3rd reading with a party line vote and now goes to the Senate for further consideration in the second half of session.

Next week, the House has its 3rd reading deadline on Monday and the Senate has its deadline on Tuesday. Any bills that have failed to advance through 3rd reading in their originating chamber by those dates will no longer be eligible for consideration.

**Bills being watching that had bill actions this week:**

**BUDGET**

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| **HB1001** | **STATE BUDGET** (THOMPSON J) Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes. Provides that the auditor of state is also known as the state comptroller. Provides that, after June 30, 2023, the auditor of state shall use the title "state comptroller" in conducting state business, in all contracts, on business cards, on stationery, and with other means of communication as necessary. Establishes the opioid settlement fund into which funds received from opioid litigation settlements must be deposited. Allows the budget committee to submit the budget report and budget bill or bills to the governor on or before the second Monday of January, or the third Monday of January in the year in which a gubernatorial election is held (instead of before that date). Requires the state personnel department to require a contractor, when contracting for health care coverage for state employees, to use value based coverage. Allows the Indiana economic development corporation to certify an applicable tax credit that exceeds the maximum allowable amount after review by the budget committee. Provides that specified expenses are eligible to be funded by the fund established under the regional economic acceleration and development initiative (READI). Provides that the READI program expires on June 30, 2026. Allows an individual to claim an increased exemption amount for a dependent child in the first year in which the exemption amount may be claimed for the child. Reduces the individual income tax rate to 2.9% by 2026 and eliminates all trigger provisions in current law. Allows a county fiscal body to impose a tax rate on the adjusted gross income of local taxpayers in the county for public health purposes. Establishes the regional public safety training fund. Repeals provisions relating to the establishment of the: (1) Indiana homeland security foundation; (2) Indiana homeland security fund; and (3) fire training infrastructure fund. Allows certain members of the public employees' retirement fund or Indiana state teachers' retirement fund to file an election to begin receiving retirement benefits while holding a position. Changes the state police pre-1987 benefit and supplemental pension benefit calculation from being based on the sixth year of service to the fourth year of service. Repeals the public mass transportation fund. Repeals the financial responsibility compliance verification fund. Changes the number of years of service on which the salary matrix for state police employees is based to 15 years (instead of 20 years). Requires the department of correction to deposit the amount appropriated for the county misdemeanant fund by a county's multiplier. Requires the office of Medicaid policy and planning (office) to: (1) develop a schedule for the review of Medicaid reimbursement rates; and (2) provide a copy of the schedule to the budget committee; not later than November 1, 2023. Increases the maximum amount of a grant made under the prekindergarten pilot program. Establishes the commission on improving the status of children fund to support the staffing and operations of the commission. Provides that a part of state user fees shall be deposited in the Indiana secured school fund. Repeals the distribution schedule for appropriations made for certain child development programs. Deletes reimbursement rate parameters for reimbursement of managed care organizations under the healthy Indiana plan. Extends the sunset of the collection of hospital assessment fees and health facility quality assessment fees from June 30, 2023, to June 30, 2025. Increases the total number of adult learner students at the Excel Centers for Adult Learners and Christel House DORS centers for whom the school may receive state funding. Provides that the parent of a student or an emancipated minor who attends an accredited nonpublic school and who meets financial eligibility requirements may request reimbursement of fees charged for curricular materials. Prohibits school corporations and charter schools from charging a fee for curricular materials to students. Repeals the charter and innovation network school grant program. Establishes the innovation network school grant program. Establishes the Indiana education scholarship account donation fund to accept donations for administration of the Indiana education scholarship account program. Repeals the special education fund. Establishes the outcomes based formula fund from which the commission for higher education may annually request distributions from the outcomes based formula fund for each state educational institution. Provides that state user fees remaining after required distributions shall be distributed to the state general fund (instead of the court technology fund). Makes certain amendments to the juvenile diversion grant program, the juvenile community alternatives grant program, and the juvenile behavioral health competitive grant pilot program (programs). Requires grants for the programs to be administered by the Indiana criminal justice institute in consultation with the juvenile justice oversight committee (oversight committee) and the grant process workgroup created by the oversight committee, taking into consideration the grant program report prepared and submitted to the commission on improving the status of children in Indiana by the oversight committee. Requires the state comptroller to deposit distributions of pro bono legal services fees received from the: (1) clerk of a circuit court; (2) clerk of a city or town court; or (3) Marion County small claims court; in the pro bono legal services fund. Provides that unexpended and unencumbered amounts appropriated to the legislative services agency in a state fiscal year ending before July 1, 2024, do not revert to the state general fund. Extends the judicial and legislative branch leave conversion pilot program through June 30, 2025. Provides for the calculation of salary increases for the governor and state elected officials. Provides for the calculation of salary increases for court officers. Requires the state comptroller to transfer $80,000,000 from the tobacco master settlement agreement fund to the state construction fund on July 1, 2023. Provides that unexpended and unencumbered amounts appropriated from the federal economic stimulus fund in the state fiscal year ending before July 1, 2023, do not revert to the state general fund. Appropriates money for various purposes for the state fiscal year ending June 30, 2023. Provides that a certain amount of property tax revenue distributed to a school corporation's operations fund must be determined without regard to the property tax caps. Provides that the corresponding reduction in tax revenue to other political subdivisions must be allocated proportionately. Establishes phased-in maximum tax rates that apply to certain school corporations. Requires the state comptroller to distribute a grant amount to schools based on a targeted amount of funding and the net collected revenue the school received from its operations fund levy in the previous calendar year. Establishes the credential completion grant. Removes pathways for choice scholarship eligibility. Increases the annual income maximum for choice scholarship eligibility. Provides that a school corporation is eligible for an academic performance grant. Defines "base student fundin | |
|  | ***Current Status:*** | 2/23/2023 - Senate sponsors: Senators Mishler and Garten |
|  | ***All Bill Status:*** | 2/23/2023 - Third reading passed; Roll Call 234: yeas 66, nays 29 2/23/2023 - House Bills on Third Reading 2/22/2023 - Second reading amended, ordered engrossed 2/22/2023 - Amendment #11 (GiaQuinta) failed; Roll Call 205: yeas 26, nays 61 2/22/2023 - Amendment #16 (DeLaney) ruled out of order 2/22/2023 - Amendment #12 (Hamilton) prevailed; voice vote 2/22/2023 - Amendment #13 (Pryor) prevailed; voice vote 2/22/2023 - Amendment #2 (Sweet) prevailed; Roll Call 204: yeas 53, nays 34 2/22/2023 - Amendment #14 (Porter) failed; Roll Call 203: yeas 28, nays 62 2/22/2023 - Amendment #14 (Porter) failed; 2/22/2023 - Amendment #3 (Thompson) prevailed; voice vote 2/22/2023 - House Bills on Second Reading 2/20/2023 - Committee Report amend do pass, adopted 2/20/2023 - House Committee recommends passage, as amended Yeas: 14; Nays: 5 2/20/2023 - House Ways and Means, (Bill Scheduled for Hearing) 2/9/2023 - House Ways and Means, (Bill Scheduled for Hearing) 1/12/2023 - Referred to House Ways and Means 1/12/2023 - First Reading 1/12/2023 - Coauthored by Representatives Porter and Cherry 1/12/2023 - Authored By Jeffrey Thompson |
|  | ***State Bill Page:*** | [HB1001](http://iga.in.gov/legislative/2023/bills/house/1001) |

**TAXES**

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| **HB1035** | | | **TOWNSHIP ASSESSORS** (PRESSEL J) Provides that, in counties that have one or more township assessors, the county election board shall place on the ballot at the November 2024 general election a public question asking whether the office of township assessor should be abolished or continued. Provides that a county election board shall tabulate the votes cast on the public question and certify the results to the department of local government finance. Provides that if a majority of the voters voting on the public question vote "yes", the office of each township assessor in the county is abolished, effective January 1, 2026. Provides that if a majority of voters voting on the public question vote "yes": (1) employment positions as of December 31, 2025, of each township assessor in the county are transferred to the county assessor; (2) real and personal property duties of each township assessor in the county are transferred to the county assessor; (3) obligations outstanding on December 31, 2025, of each township assessor in the county are transferred to the county assessor; and (4) the funds of each township assessor in the county on hand for the purpose of carrying out the property assessment duties in the amount determined by the county auditor are transferred to the county assessor. Provides that before October 1, 2025, the county assessor shall interview, or give the opportunity to interview to, each individual who: (1) is an employee of a township assessor in the county; and (2) applies before September 1, 2025, for an employment position. Provides that the township shall transfer to the county assessor all revenue received after the date of the transfer that is received by the township for the purpose of carrying out property assessment duties in the amount determined by the county auditor. | | | | | |
|  | | | ***Current Status:*** | | | 2/23/2023 - Referred to Senate Local Government | | |
|  | | | ***Recent Status:*** | | | 2/23/2023 - First Reading 1/24/2023 - Referred to Senate | | |
|  | | | ***State Bill Page:*** | | | [HB1035](http://iga.in.gov/legislative/2023/bills/house/1035) | | |
| **HB1085** | **TAX INCREMENT FINANCING** (CHERRY R) Makes changes to the membership compositions of redevelopment commissions. Provides that the president and vice president of a redevelopment commission shall not have the same appointing authority. Requires a commission to provide an annual spending plan listing planned expenditures for the next calendar year. Provides that a commission may accelerate payments toward debt service obligations, in order to retire debt service earlier, regardless of whether that use is listed in the annual spending plan. Provides that a commission making accelerated debt payments may retain the assessed value associated with the original debt service schedule. Requires a commission to provide fund balances to the department of local government finance at the end of a calendar year. Provides that except for property tax proceeds transferred to a school corporation or public school, including a charter school, allocated property tax proceeds may be expended for projects located outside an allocation area only if the commission adopts a declaratory resolution that finds that the expenditures: (1) will directly benefit the allocation area; or (2) will result in the creation or retention of jobs in the private sector. Provides that specified amounts collected in an allocation area must be allocated to certain taxing units that provide police or fire services in the allocation area and specifies the manner in which those allocation calculations are to be made. Provides that the amount of assessed value in excess of the 200% required to make principal and interest payments on bonds may be used for non-debt, one time purposes within a calendar year before allocating the balance of the excess assessed value to the respective taxing units. Provides that the expiration date of an allocation area may not be extended. Provides that a commission may, pursuant to the approval of the local legislative body, create an account for a specific infrastructure purpose. Provides that for a bond issuance related exclusively for infrastructure in an allocation area, new bonds may only be issued by an existing commission between July 1, 2023, and January 1, 2025. Provides that, for 2023, an ordinance or resolution to establish or expand a fire protection territory is adopted after the legislative body holds at least three public hearings to receive public comment on the proposed ordinance or resolution in which: (1) at least one public hearing must be held at least 25 days before the legislative body votes on the adoption of the ordinance or resolution; and (2) at least two additional public hearings must be held not later than five days before the legislative body votes on the adoption of the ordinance or resolution. Provides that the excess of the proceeds of the property taxes attributable to an increase in the property tax rate for a participating unit of a fire protection territory that is established after the establishment of a tax increment financing area located outside of Marion County shall be allocated to and distributed in the form of an assessed value pass back to the participating unit of the fire protection territory and not to the redevelopment district. | | | | | |
|  | ***Current Status:*** | | | 2/27/2023 - House Bills on Third Reading | | |
|  | ***Recent Status:*** | | | 2/23/2023 - House Bills on Third Reading 2/22/2023 - Second reading amended, ordered engrossed | | |
|  | ***State Bill Page:*** | | | [HB1085](http://iga.in.gov/legislative/2023/bills/house/1085) | | |
| **SB419** | | **STATE TAX MATTERS** (HOLDMAN T) Makes certain changes regarding net operating losses for purposes of determinating state adjusted gross income. Provides that certain amounts for providing or expanding access to broadband service in Indiana may be subtracted from a taxpayer's state corporate adjusted gross income. Provides for successor liability for certain unpaid taxes following a business asset sale. Repeals an outdated provision requiring separate exemption certificates for manufacturers and wholesalers. Makes a clarifying change to the sales tax exemption that applies to power subsidiaries. Clarifies the acquisition date for purposes of adding back interest from tax exempt bonds issued by another state in determining Indiana adjusted gross income. Amends provisions regarding the exemption for certain income derived from patents. Provides that tax paid by an electing partnership is deposited in the state general fund. Makes clarifying changes and technical corrections to the affordable and workforce housing tax credit. Specifies the deposit and distribution of interest and penalties associated with certain taxes. Authorizes the department of state revenue to publish or disclose the status of a governmental or nonprofit entity's sales tax exemption certificate. Provides that a person who knowingly or intentionally sells, purchases, installs, transfers, or possesses: (1) an automated sales suppression device or a zapper; or (2) phantom-ware; commits a Level 5 felony. Makes clarifying and technical corrections to provisions under the electronic cigarette tax. | | | | | |
|  | | ***Current Status:*** | | | 2/23/2023 - added as second author Senator Baldwin | | |
|  | | ***Recent Status:*** | | | 2/23/2023 - Second reading ordered engrossed 2/23/2023 - Senate Bills on Second Reading | | |
|  | | ***State Bill Page:*** | | | [SB419](http://iga.in.gov/legislative/2023/bills/senate/419) | | |

**PLANNING, ZONING, & MUNICIPAL LAW**

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| **HB1315** | **ZONING AND HOME WARRANTIES** (MILLER D) Allows a builder to disclaim implied warranties for a new home that is first occupied by a person renting the home as a residence from the initial home buyer. Allows a builder to disclaim implied warranties on a model home in the same manner as a home that is first occupied as a residence. Prohibits a county, city, or town from exercising its planning and zoning authority in a way that differentiates between fraternity and sorority houses based upon whether the fraternity or sorority is officially approved or recognized by the college or university. | |
|  | ***Current Status:*** | 2/23/2023 - Referred to Senate Local Government |
|  | ***Recent Status:*** | 2/23/2023 - First Reading 1/31/2023 - Senate sponsor: Senator Baldwin |
|  | ***State Bill Page:*** | [HB1315](http://iga.in.gov/legislative/2023/bills/house/1315) |

**BUILDING REQUIREMENTS**

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| **SB333** | **RULES GOVERNING CERTAIN CONSTRUCTION INSPECTIONS** (MESSMER M) Makes changes to the qualification requirements for an applicant of a design release issued by the state building commissioner. | |
|  | ***Current Status:*** | 2/23/2023 - Senate Bills on Third Reading |
|  | ***Recent Status:*** | 2/21/2023 - Senate Bills on Third Reading 2/20/2023 - Senate Bills on Third Reading |
|  | ***State Bill Page:*** | [SB333](http://iga.in.gov/legislative/2023/bills/senate/333) |

**LANDLORD-TENANT**

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| **SB202** | **STUDY COMMITTEE** (QADDOURA F) Urges the legislative council to assign the topic of various housing matters to the appropriate interim study committee. | |
|  | ***Current Status:*** | 2/21/2023 - added as coauthor Senator Randolph |
|  | ***Recent Status:*** | 2/21/2023 - added as coauthor Senator Baldwin 2/21/2023 - Cosponsors: Representatives Clere, Errington, Pryor |
|  | ***State Bill Page:*** | [SB202](http://iga.in.gov/legislative/2023/bills/senate/202) |

**REAL ESTATE TRANSACTIONS**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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| **HB1155** | **UNLICENSED REAL ESTATE SOLICITOR** (CLERE E) Defines an "unlicensed real estate solicitor". Requires an unlicensed real estate solicitor to include a specific solicitation disclosure on all advertisements promoting the unlicensed real estate solicitor's intent to purchase a residential, single-family home. Provides remedies to a homeowner that enters into an agreement with an unlicensed real estate solicitor. Provides that it is a deceptive act enforceable by the attorney general for an unlicensed real estate solicitor to solicit the sale or purchase of real estate through print or broadcast advertising without the required solicitation disclosure. | |
|  | ***Current Status:*** | 2/22/2023 - Referred to Senate |
|  | ***Recent Status:*** | 2/21/2023 - Senate sponsors: Senators Alexander and Niezgodski 2/21/2023 - Third reading passed; Roll Call 174: yeas 69, nays 25 |
|  | ***State Bill Page:*** | [HB1155](http://iga.in.gov/legislative/2023/bills/house/1155) |

**UTILITIES**

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| **SB9** | **ELECTRIC SERVICE RELIABILITY** (LEISING J) Requires a public utility to notify the Indiana utility regulatory commission (IURC) if: (1) the public utility intends or decides to retire, sell, or transfer an electric generation facility with a capacity of at least 80 megawatts; and (2) the retirement, sale, or transfer: (A) was not set forth in; or (B) is to take place on a date earlier than the date specified in; the public utility's short term action plan in the public utility's most recently filed integrated resource plan (IRP). Provides that upon receiving such notice from a public utility, the IURC shall consider and may investigate the public utility's intention or decision to retire, sell, or transfer the electric generation facility. Provides that in considering the public utility's intention or decision, the commission shall examine the impact the retirement, sale, or transfer would have on the public utility's ability to meet: (1) the public utility's planning reserve margin requirements or other federal reliability requirements; and (2) the reliability adequacy metrics set forth in Indiana law. Provides that if the retirement, sale, or transfer was not set forth in, or is to take place earlier than specified in, the public utility's short term action plan in the public utility's most recently filed IRP, the IURC shall not permit the public utility's depreciation rates to be amended to reflect the accelerated date for the retirement, sale, or transfer of the electric generation asset unless the IURC finds that such an adjustment is necessary to ensure the ability of the public utility to provide reliable service to its customers, and that the unamended depreciation rates would cause an unjust and unreasonable impact on the public utility and its ratepayers. Authorizes the IURC to adopt a general administrative order to implement these provisions. Provides that the bill's provisions do not apply to: (1) the retirement, sale, or transfer of a public utility's electric generation facility if the retirement, sale, or transfer is necessary for the public utility to comply with a federal consent decree; or (2) an electric generation facility that generates electricity for sale exclusively to the wholesale market. Provides that the bill's provisions expire July 1, 2026. | |
|  | ***Current Status:*** | 2/23/2023 - Committee Report amend do pass, adopted |
|  | ***Recent Status:*** | 2/23/2023 - Senate Committee recommends passage, as amended Yeas: 6; Nays: 2 2/23/2023 - Senate Utilities, (Bill Scheduled for Hearing) |
|  | ***State Bill Page:*** | [SB9](http://iga.in.gov/legislative/2023/bills/senate/9) |