

# FAEGRE DRINKER

2021 Indiana Legislative Update #14

## BOMA Indianapolis



*April 12, 2021*

The General Assembly wrapped up committee work on Thursday, shortly after Senate Republicans unveiled their version of the two-year budget. Today (April 12) is the final day for floor amendments on bills that made it through committee in the second chamber, and Tuesday is the deadline for the House to adopt Senate bills and for the Senate to take action on House bills. After those deadlines pass, the next 8 days will be a flurry of activity as legislators scramble to finalize bills in time to meet the April 21 target date for adjournment.

Although a handful of conference committees have started meeting, the conference committee process will begin in earnest on Wednesday. Under the legislature's rules, a bill that is amended in the second chamber returns to the first house, which can either concur with the changes and send the bill to the governor, or dissent and send the bill to a conference committee. Once a bill ends up in conference committee, it becomes fair game to be used as a vehicle to revive "dead" bills that passed one chamber but failed to clear the second house. Because this flexibility allows lawmakers to load up conference committee reports with provisions that were previously presumed dead, conference committees are frequently referred to as the "Wild West" of the legislative process.

**Bill summaries:** Following is an updated index and summaries of bills of potential interest to BOMA. Bills on the attached index that are NOT highlighted did not move out of committee in the second chamber and are technically dead for the year, although their comments may be added to another bill.

## INDEX OF BILLS

*Bills highlighted in BLUE are still alive*

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### INDIANAPOLIS DOWNTOWN

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### LOCAL TAXES

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### BUILDING REQUIREMENTS

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## ENVIRONMENT

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### UTILITIES

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<a href="#">HB 1191</a>	LOCAL UNIT POWER TO PROHIBIT UTILITY CONNECTION	PRESSEL J
<a href="#">HB 1220</a>	21ST CENTURY ENERGY POLICY DEVELOPMENT TASK FORCE	SOLIDAY E
<a href="#">HB 1381</a>	COMMERCIAL WIND AND SOLAR STANDARDS AND SITING	SOLIDAY E
<a href="#">SB 348</a>	WASTEWATER TASK FORCE	KOCH E
<a href="#">SB 349</a>	SALE OF MUNICIPALLY OWNED UTILITY ASSETS	KOCH E
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<a href="#">HB 1056</a>	RECORDING REQUIREMENTS	TORR J
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**HB 1002 CIVIL IMMUNITY RELATED TO COVID-19 (TORR J)**

- Protects health care providers from professional discipline for certain acts or omissions arising from a disaster emergency unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a health care provider is not protected from professional discipline for actions that are outside the skills, education, and training of the health care provider, unless certain circumstances apply.
- Specifies that orders and recommendations issued by local, state, and federal government agencies and officials during a state disaster emergency do not create new causes of action or new legal duties. Specifies that the orders and recommendations are presumed irrelevant to the issue of the existence of a duty or breach of a duty.
- Prohibits filing a class action lawsuit against a defendant in a civil action allowed by the statute.
- Specifies that a governmental entity or employee is not liable if a loss results from an act or omission arising from COVID-19 unless the act or omission constitutes gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides that a person is not liable to a claimant for loss, damage, injury, or death arising from COVID-19 unless the claimant proves that the person caused the loss, damage, injury, or death by an act or omission constituting gross negligence, willful or wanton misconduct, or intentional misrepresentation.
- Provides immunity from civil liability to certain persons, entities, and facilities providing health care and other services for certain acts or omissions related to the provision of health care services and other services during a state disaster emergency.
- Extends COVID-19 health care immunity during periods of disaster emergency after February 29, 2020, and before April 1, 2022.

Resolves conflicts between SEA 1 and HB 1002.

*Current Status:* 4/6/2021 - Third reading passed; Roll Call 349: yeas 41, nays 9

*State Bill Page:* [HB 1002](#)

**HB 1004 SMALL BUSINESS RESTART GRANT PROGRAM (LINDAUER S)** Establishes the Hoosier hospitality small business restart grant program (program) to provide grants to eligible entities to accelerate economic recovery from the impacts of the coronavirus disease (COVID-19) pandemic. Establishes the small business restart grant fund (fund). Provides that the Indiana economic development corporation (corporation) administers the program and fund. Allows the corporation to award grants from the fund. Provides parameters for the program. However, authorizes the corporation to change the parameters of the program, which, if a change is made, must be reviewed by the budget committee at the meeting following the change. Makes an appropriation.

*Current Status:* 4/8/2021 - Signed by the President Pro Tempore

*All Bill Status:* 4/5/2021 - House Concurred in Senate Amendments ; Roll Call 348: yeas 94, nays 3

*State Bill Page:* [HB 1004](#)

**HB 1056 RECORDING REQUIREMENTS (TORR J)** Amends the requirements for instruments and conveyances to be recorded. Adds instances in which an instrument is considered validly recorded for purposes of providing constructive notice. Defines certain terms.

*Current Status:* 2/25/2021 - Public Law 2

*State Bill Page:* [HB 1056](#)

**HB 1123 LEGISLATIVE OVERSIGHT OF CERTAIN FISCAL AND EMERGENCY MATTERS (LEHMAN)**

- Specifies that the bill is severable.
- Provides that the general assembly may convene in an emergency session if the legislative council adopts a resolution making certain findings concerning a state of emergency declared by the governor. Specifies the maximum length of an emergency session. Provides that in an emergency session the general assembly may enact only bills relating to the agenda stated in the legislative council's resolution. Provides that the general assembly may adopt concurrent resolutions and each house may adopt simple resolutions during an emergency session.
- Establishes the legislative state of emergency advisory group.
- Creates the economic stimulus fund (ESF) for the deposit of all discretionary funds received by the state. Defines "discretionary funds" to mean federal economic stimulus funds received under federal legislation granting the state authority to determine the amounts and manner in which the federal economic stimulus funds may be expended. Provides that discretionary funds deposited into the ESF during a period in which the general assembly is convened in a regular session, an emergency session, or a special session may not be allotted or expended unless appropriated by the general assembly or reviewed by the budget committee. Provides that before discretionary funds deposited into the ESF during a period in which the general assembly is not convened in a regular session, an emergency session, or a special session may be allotted to or expended by a state agency or instrumentality, the allotment or expenditure must be reviewed by the budget committee. Provides that discretionary funds deposited into the ESF may not be expended, transferred, assigned, or otherwise removed from the ESF by the state board of finance, the budget agency, or any other state agency except as permitted under the provisions of the statute.
- Exempts federal economic stimulus funds obligated or expended before April 29, 2021, from the application of the statute.
- Provides that a violation of the disaster statute (IC 10-14-3) or an order authorized by that statute is a Class B infraction instead of a Class B misdemeanor.

**Current Status:** 4/9/2021 - **VETOED BY GOVERNOR**

**State Bill Page:** [HB 1123](#)

## **HB 1164**

**VARIOUS UTILITY MATTERS (MANNING E)** Exempts a contract for the lease of state property under which no state expenditures are required from provisions: (1) requiring certain disclosures and certifications by a prospective state contractor regarding violations of Indiana telephone solicitation and automated calling statutes; (2) regarding cancellation of public purchasing contracts due to lack of funds; (3) regarding state contractor use of the E-Verify program; and (4) prohibiting state contractor employment of unauthorized aliens. Establishes a calculation for determining nondiscriminatory, just, and reasonable rental fees charged by: (1) rural electric cooperatives; and (2) municipalities providing electric service; that own or control electric distribution poles for attachments to those poles by communications service providers. Sets forth rights and duties of pole owners and attaching entities with respect to: (1) unauthorized pole attachments; and (2) pole attachment transfers and relocations. Provides that the Indiana utility regulatory commission (IURC) may not require a communications service provider to: (1) file a tariff; or (2) report to the IURC any information that is: (A) available to the public on the communications service provider's Internet web site; (B) filed with the FCC; or (C) otherwise available to the public; except as required by the IURC to respond to consumer complaints or information requests from the general assembly. Makes the following changes to the statute concerning permits for wireless service providers: (1) Amends the factors that must exist for a permit authority to prohibit the placement of a new utility pole or wireless support structure in connection with the construction, placement, or use of a small cell facility in areas designated strictly for underground or buried utilities. (2) Provides that neighborhood associations, homeowners associations, and homeowners may request to be notified of applications by communications service providers for certain permitted uses of the rights-of-way in those designated areas, in addition to requesting notice of applications for new utility poles or new wireless support structures (as provided under current law). (3) Sets forth a procedure by

which a permit authority may elect to collaborate with a neighborhood association or a homeowners association to adopt neighborhood specific guidelines on the preferred location and reasonable aesthetics of new utility poles or new wireless support structures within the neighborhood association's or homeowners association's jurisdiction. (4) Provides that a permit authority may not impose: (A) a restriction on maximum height of a wireless support structure, subject to certain federal regulations and state laws; or (B) a requirement regarding minimum separation distances between wireless support structures. Provides that a tariff filed with the IURC by a communications service provider is effective upon filing. Provides that a communications service provider may access public rights-of-way under the control of a county or municipality to the same extent as a public utility. Provides that a video service provider is not required to provide the IURC with information describing the provider's programming, including the provider's channel lineups or channel guides. Exempts a political subdivision's disposal of property by sale, exchange, transfer, or lease of the property to a public utility or a communications service provider from certain provisions regarding disposal of property by a political subdivision. Provides an exemption to the public works law for certain work done by the employees of a conservancy district established for the purpose of water or sewage treatment.

*Current Status:* 4/12/2021 - House Bills on Second Reading

*State Bill Page:* [HB 1164](#)

**HB 1166**     **TAX REPRESENTATIVES AND ASSESSOR COMPETENCY** (SOLIDAY E) Provides that certified level two assessor-appraisers and certified level three assessor-appraisers may serve as tax representatives under certain circumstances. Provides that a taxpayer may submit a written complaint to the department of local government finance if the taxpayer has reason to believe the assessing official failed to adhere to Uniform Standards of Professional Appraisal Practice or does not have the necessary competency to perform the assessment. Provides that notice of a taxpayer's right to submit a written complaint must be included on the taxpayer's notice of assessment or reassessment.

*Current Status:* 4/12/2021 - House Bills on Third Reading Rule 66(b)

*State Bill Page:* [HB 1166](#)

**HB 1191**     **LOCAL UNIT POWER TO PROHIBIT UTILITY CONNECTION** (PRESSEL J) Provides that a county executive or the legislative body of a city or town does not have the power to prohibit: (1) a public utility or department of public utilities from furnishing utility service to a utility customer; or (2) a customer of a public utility or department of public utilities from purchasing, using, or connecting or reconnecting to a utility service; based on the energy source of the utility service. Provides that, except for purposes of compliance with specified building and fire safety laws, a local unit does not have the power to: (1) require that a particular component, design, or type of material be used in the construction of a building because of the energy saving or energy producing qualities of the component, design, or material; (2) prohibit the use of a particular component, design, or type of material in the construction of a building because the component, design, or material does not meet an energy saving standard; (3) require that a building or structure be retrofitted with a particular device or type of material because of the energy saving or energy producing qualities of the device or material; (4) prohibit or restrict the purchase or use of vehicles based upon the type of energy used; or (5) prohibit the sale, installation, or use of: (A) natural gas powered: (i) home heating equipment; (ii) home appliances; or (iii) outdoor heating appliances, torches, lamps, or other decorative features; or (B) outdoor grills and stoves.

*Current Status:* 4/12/2021 - House Bills on Second Reading

*State Bill Page:* [HB 1191](#)

**HB 1255**     **PROBATE AND PROPERTY MATTERS** (YOUNG J) Among other things: Repeals certain provisions concerning mortgages, conveyances, and other written instruments that are executed in a foreign country. Repeals certain provisions concerning the affixing of a private seal or ink scroll on certain conveyances involving land or interests in land. Specifies certain requirements concerning land conveyances performed by attorneys in fact. Requires certain notarial acts to accompany the recording of certain conveyances. Requires an English translation for certain instruments,

acknowledgments, and proofs when the original document is not in English. Repeals a provision concerning the recording of a conveyance, mortgage, or other instrument in a county other than the county where the conveyance, mortgage, or other instrument is required to be recorded. Repeals a provision concerning the recording of a conveyance that is acknowledged outside Indiana but within the United States. Specifies: (1) certain prerequisites; and (2) a certain form; for the recording of certain instruments. Repeals a provision concerning the receipt of an acknowledgment by a public officer. Specifies that an instrument's acknowledgment or proof is incomplete when an instrument does not include an accompanying certificate. Provides that the transcript of an instrument that is recorded without a certificate cannot be read into or received as evidence. Specifies requirements concerning electronic recording of certain instruments concerning real property. Requires county recorders to implement specified functions concerning the: (1) acceptance; (2) receipt; (3) indexing; (4) storage; (5) archiving; and (6) transmittal; of electronically recorded instruments. Specifies certain requirements concerning the recording of a paper or tangible copy of an electronic instrument. Repeals a provision concerning the acknowledgment of certain instruments and the performance of certain notarial acts for a person serving in the armed forces, merchant marine, or outside the United States in connection with a wartime activity. Repeals provisions concerning: (1) certain notarial acts; and (2) acknowledgments; and their respective uses as prima facie evidence. Repeals a provision concerning certain executed instruments and a failure to state the location of the instrument's execution or any accompanying acknowledgment, if applicable. Provides that certain notarial acts are considered to have been performed in Indiana when certain specified criteria are met. Requires a county recorder's office to provide notice of office closures that last three or more days. Defines certain terms. Makes conforming amendments. Removes sections that conflict with HEA 1056. Makes a technical correction.

*Current Status:* 4/8/2021 - Signed by the President Pro Tempore

*State Bill Page:* [HB 1255](#)

**HB 1270**     **DEPARTMENT OF HOMELAND SECURITY (FRYE R)** Amends the administrative orders and procedures act to allow for an initial notice of determination to be served by electronic mail or any other method approved by the Indiana Rules of Trial Procedure. (Under current law, the initial notice of determination may be served only by United States mail or personal service.) Repeals provisions concerning the division of planning and assessment, division of preparedness and training, division of emergency response and recovery, and division of fire and building safety (divisions). Assigns all duties of the divisions to the executive director of the department of homeland security (department) or the department generally.

*Current Status:* 4/12/2021 - House Bills on Second Reading

*State Bill Page:* [HB 1270](#)

**HB 1271**     **DEPARTMENT OF LOCAL GOVERNMENT FINANCE (LEONARD D)** Among other things:

- Provides rules and procedures for school corporation budget adoption meetings and hearings.
- Provides that 25 taxpayers of a political subdivision must sign a written request for certain public hearings on budgets, tax rates, or tax levies.
- Provides that a political subdivision shall include an appropriation for bond proceeds in its budget for the ensuing year.
- Requires the county auditor of the county in which a political subdivision or school corporation proposes to impose property taxes to determine the: (1) estimated average percentage of property tax increase on a homestead to be paid to the political subdivision or school corporation; and (2) estimated average percentage of property tax increase on a business property to be paid to the political subdivision or school corporation. Provides a formula for making the estimated average percentage of property tax increase determinations.
- Provides that distributions from the financial institutions tax fund may be used for any legal purpose. Provides that a county's distribution of the commercial vehicle excise tax may be

used for any legal purpose.

- Provides that for education emergency loans and anticipatory warrants, a governing body may not increase the debt service fund levy to pay for the interest on the loans or warrants unless the loans or warrants have been issued, and the school corporation has received the proceeds from the loans or warrants. Provides that a governing body may not authorize an education emergency loan for the purpose of increasing the school corporation's property tax rate for the ensuing budget year. Provides that for temporary education loans, a board of school trustees, including an Indianapolis public school board, may not impose a levy to pay for the interest on the loans from a debt service fund unless the loan has been issued, and the school town or school city has received the loan proceeds. Provides that a board of school trustees may not authorize a temporary loan for the purpose of increasing the school town or school city's property tax rate for the ensuing budget year.
- Extends the sunset date for provisions that permit certain political subdivisions to sell bonds at a negotiated sale from July 1, 2021, to July 1, 2023, and includes all counties, townships, cities, towns, and school corporations under those provisions.
- Increases the amount that a political subdivision may transfer into its rainy day fund from 10% to 15% during calendar years 2021 through 2024.
- Amends the definition of "economic improvement project" under the economic improvement districts chapter.

*Current Status:* 4/8/2021 - **SIGNED BY GOVERNOR**

*State Bill Page:* [HB 1271](#)

**HB 1314**     **RECORDED DISCRIMINATORY COVENANTS** (TORR J) Permits a person to file a statement or notice that a recorded discriminatory covenant is invalid and unenforceable.

*Current Status:* 4/1/2021 - **SIGNED BY GOVERNOR**

*State Bill Page:* [HB 1314](#)

**HB 1381**     **COMMERCIAL WIND AND SOLAR STANDARDS AND SITING** (SOLIDAY E) Establishes default standards concerning the following with respect to projects to install or locate wind power devices in local units: (1) Setback requirements. (2) Height restrictions. (3) Shadow flicker limitations. (4) Signal interference. (5) Sound level limitations. (6) Wind turbine light mitigation technology. (7) Required repairs to drainage related infrastructure. (8) Project decommissioning. Provides that a unit that has in effect on July 1, 2021, a wind power regulation that includes standards that are more restrictive than the default wind power standards set forth in the bill may: (1) continue to apply and enforce the unit's existing wind power regulation with respect to a proposed project; or (2) allow within the unit the establishment of a renewable energy district (RED) in which a proposed project will be located. Provides that a unit that has not adopted a wind power regulation may: (1) restrict, or impose conditions or limitations on, wind projects in the unit if the unit first adopts a wind power regulation that includes standards that are not more restrictive than the bill's default standards; or (2) allow within the unit the establishment of a RED in which a proposed project will be located. Provides that the bill's default standards for wind projects apply within the boundaries of a RED. Provides that a unit that: (1) adopts a wind power regulation that complies with the bill's standards; or (2) allows the establishment of one or more REDs in the unit; may impose a one-time construction fee for each wind power device included in a project application submitted to the unit after June 30, 2021. Provides that such a construction fee: (1) is payable by the project owner upon the commencement of construction of each wind power device; and (2) may not exceed \$3,000 per megawatt of installed capacity. Establishes default standards concerning the following with respect to projects to install or locate commercial solar energy systems (CSE systems) in a unit: (1) Setback requirements. (2) Height restrictions. (3) Ground cover. (4) Fencing. (5) Cables. (6) Glare. (7) Signal interference. (8) Sound level limitations. (9) Required repairs to drainage related infrastructure. (10) Project decommissioning. Provides that a unit that has in effect on July 1, 2021, a commercial solar regulation that includes standards that are more restrictive than the default CSE system standards set forth in the bill may: (1) continue to apply and enforce the unit's existing



commercial solar regulation with respect to a proposed project; or (2) allow within the unit the establishment of a renewable energy district (RED) in which a proposed project will be located. Provides that a unit that has not adopted a commercial solar regulation may: (1) restrict, or impose conditions or limitations on, commercial solar projects in the unit if the unit first adopts a commercial solar regulation that includes standards that are not more restrictive than the bill's default standards; or (2) allow within the unit the establishment of a RED in which a proposed project will be located. Provides that the bill's default standards for CSE systems apply within the boundaries of a RED. Provides that a unit that: (1) adopts a commercial solar regulation that complies with the bill's standards; or (2) allows the establishment of one or more REDs in the unit; may impose a one-time construction fee for each CSE system included in a project application submitted to the unit after June 30, 2021. Provides that such a construction fee: (1) is payable by the project owner upon the commencement of construction of each CSE system; and (2) may not exceed \$1,000 per megawatt of installed capacity. Provides a project owner is exempt from any construction fee imposed by a unit with respect to: (1) a wind power project; or (2) a commercial solar project; if, at the time of application, the project owner demonstrates that the project owner has executed before July 1, 2021, a commercial offtake agreement with respect to the project. Amends the home rule statute to provide that the following apply to a wind power regulation or a commercial solar regulation adopted by a unit after June 30, 2021: (1) The regulation must be approved by the unit's plan commission. (2) Any procedures set forth in the regulation with respect to the permitting or approval process for the siting or installation of wind power devices or CSE systems in the unit must comply with the procedural processes set forth in the bill. (3) Any standards included in the regulation must not be more restrictive than the default standards set forth in the bill. Establishes procedures for the permitting or approval process for the siting of wind power devices in a local unit that: (1) does not have a wind power regulation in effect after June 30, 2021; or (2) does have a wind power regulation in effect after June 30, 2021, and has opted to allow the establishment of a RED within the unit in connection with a wind power project. Establishes procedures for the permitting or approval process for the siting of CSE systems in a local unit that: (1) does not have a commercial solar regulation in effect after June 30, 2021; or (2) does have a commercial solar regulation in effect after June 30, 2021, and has opted to allow the establishment of a RED within the unit in connection with a commercial solar project. Provides that not later than five years after the date a wind power project or a commercial solar project is approved by a unit, the project owner must: (1) submit all necessary applications for required construction permits and other local permits; and (2) complete the development process; for the project. Provides that a permit authority may require a project owner that fails to comply with this time frame to submit a new application with respect to the project. Provides that: (1) a project owner; or (2) certain other interested parties; aggrieved by the decision of a unit's permit authority with respect to a proposed wind project or a proposed commercial solar project may file a complaint for appropriate relief in the circuit or superior court of a county having jurisdiction. Provides that such a complaint must be filed not later than 30 days after the date of the permit authority's written decision.

*Current Status:* 4/12/2021 - House Bills on Second Reading

*State Bill Page:* [HB 1381](#)

**HB 1466**     **PERFORMANCE BONDING OF DEVELOPERS** (PRESSEL J) Requires (rather than allows) a local unit to grant a secondary approval to a plat for a subdivision in which improvements and installations have not been completed if the applicant provides: (1) a performance bond or other proof of financial responsibility; or (2) if installation or extension of utility service is involved, proof of contracting with a utility or a political subdivision for the installation or extension. Provides that the only condition precedent that a local unit may require to recording a secondary plat is that the land developer obtain a performance bond or other surety for: (1) unfinished streets, sanitary piping, storm water piping systems, water mains, sidewalks and ornamental landscaping located in common areas; and (2) erosion control. Provides a definition of "common area".

*Current Status:* 4/8/2021 - **SIGNED BY GOVERNOR**

*State Bill Page:* [HB 1466](#)

**HB 1541**     **LANDLORD-TENANT RELATIONS** (MANNING E) Eliminates the general restriction on the

authority of a county, city, town, or township concerning regulation of landlord-tenant relationship matters not specifically described by state statute. Prohibits the waiver of laws regarding retaliatory acts by a landlord.

*Current Status:* 4/6/2021 - Third reading passed; Roll Call 361: yeas 49, nays 0

*State Bill Page:* [HB 1541](#)

**SB 1**

**CIVIL IMMUNITY RELATED TO COVID-19** (MESSMER M) Provides civil tort immunity for damages arising from COVID-19 on the premises owned or operated by a person, on any premises on which the person or an employee or agent of the person provided property or services to the individual, or during an activity managed, organized, or sponsored by the person, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts). Defines "COVID-19 protective product" and provides civil tort immunity for harm that results from the design, manufacture, labeling, sale, distribution, or donation of a COVID-19 protective product, except for an act or omission that constitutes gross negligence or willful or wanton misconduct (including fraud and intentionally tortious acts). Prohibits class action suits.

*Current Status:* 2/18/2021 - Public Law 1

*State Bill Page:* [SB 1](#)

**SB 38**

**ADVERSE POSSESSION STATUTE OF LIMITATIONS** (DORIOT B) Amends the statute concerning the statute of limitations for actions for the recovery of the possession of real estate to provide that such an action that: (1) involves a line located and established by a professional surveyor; and (2) accrues before the lines are located and established by the surveyor; must be commenced before the expiration of the appeal period set forth in the statute governing county surveyors. Amends the provision concerning the establishment of property lines by means of a legal survey to specify that the lines established are binding on all affected landowners, including a landowner who claims title under a claim of adverse possession. Provides that certain information must be contained in a notice of survey sent to adjoining landowners, and that a legible copy of the plat of the legal survey must be enclosed with the notice.

*Current Status:* 4/5/2021 - Senate Bills on Third Reading

*State Bill Page:* [SB 38](#)

**SB 187**

**PROTECTION OF MONUMENTS, MEMORIALS, AND STATUES** (KOCH E) Requires the state police department to prioritize the investigation and prosecution of persons who destroy, damage, vandalize, or desecrate a monument, memorial, or statue. Requires the state police department to assist political subdivisions in the investigation and prosecution of persons who destroy, damage, vandalize, or desecrate a monument, memorial, or statue. Provides that discretionary funding for a political subdivision may not be withheld from a political subdivision in certain circumstances. Provides that a state agency may provide discretionary funding to a political subdivision for a respective grant program after considering whether the political subdivision has taken all appropriate enforcement actions to protect public monuments, memorials, and statues from destruction or vandalism. Defines "discretionary funding". Adds enhanced penalties to the crime of rioting.

*Current Status:* 4/8/2021 - Senate Concurred in House Amendments ; Roll Call 376: yeas 36, nays 10

*State Bill Page:* [SB 187](#)

**SB 218**

**TOWNSHIP HOMELESS ASSISTANCE** (SANDLIN J) Establishes the low barrier homeless shelter task force. Beginning July 1, 2022: (1) allows a township trustee to place a homeless individual temporarily in a county home or provide temporary township assistance; and (2) requires the township trustees within a county to collaborate and prepare a list of public and private resources available to the homeless population that is distributed and published on the county's Internet web site, if the county has a web site, not later than March 1 of each year. Provides that a person commits the offense of criminal trespass if: (1) the person, who does not have a contractual interest

in the property, knowingly or intentionally enters or refuses to leave the property of another person after having been prohibited from entering or asked to leave the property by a law enforcement officer when the property is designated by a municipality or county enforcement authority to be an unsafe building or premises; or (2) the person knowingly or intentionally enters the property of another person after being denied entry by a court order that has been issued to the person or issued to the general public by conspicuous posting on or around the premises in areas where a person can observe the order when the property has been designated by a municipality or county enforcement authority to be an unsafe building or premises; unless the person has the written permission of the owner, the owner's agent, an enforcement authority, or a court to come onto the property for purposes of performing maintenance, repair, or demolition. Provides that an individual who harasses another person with the intent to obtain property from the other person commits aggressive harassment, a Class C misdemeanor. Defines "harasses". Repeals the chapter concerning panhandling.

*Current Status:* 4/1/2021 - Senate Concurred in House Amendments ; Roll Call 317: yeas 48, nays 0

*State Bill Page:* [SB 218](#)

**SB 275**

**PROPERTY TAX MATTERS AND WAIVER OF PENALTIES AND INTEREST (MELTON**

E) Provides that a taxpayer, upon appealing the assessment of certain commercial real property, must provide information concerning the actual construction costs for the commercial real property. Provides that if a taxpayer does not provide information concerning the actual construction costs for the commercial real property before the hearing scheduled by the county property tax assessment board of appeals (board of appeals) regarding the assessment of the commercial real property, the appeal may not be reviewed until all the information is provided. Provides that if a taxpayer has not provided all relevant and reasonably available information concerning the actual construction costs of the commercial real property under appeal within 10 days before the scheduled hearing by the board of appeals, the appeal is deemed void for that assessment year and may not be refiled or appealed. Provides that a county fiscal body may adopt an ordinance to provide that the county assessor be reimbursed for legal costs (in addition to other specified costs under current law) incurred by the county assessor in defending an appeal that is uncommon and infrequent in the normal course of defending appeals. Provides that the fiscal body of a county may adopt an ordinance to establish a property tax amnesty program and require a waiver of interest and penalties added before January 1, 2021, on delinquent taxes and special assessments on real property in the county if: (1) all of the delinquent taxes and special assessments on the real property were first due and payable before January 1, 2021; and (2) before November 1, 2022, the taxpayer has paid all of these delinquent taxes and special assessments and has also paid all of the taxes and special assessments that are first due and payable after December 31, 2020. Requires the waiver of interest and penalties in these circumstances, notwithstanding any payment arrangement entered into by the county treasurer and the taxpayer. Provides that the waiver of interest and penalties under a program shall not apply to interest and penalties added to delinquent property tax installments or special assessments on real property that was purchased or sold in any prior tax sale.

*Current Status:* 4/1/2021 - Returned to the Senate with amendments

*State Bill Page:* [SB 275](#)

**SB 280**

**MUNICIPAL RIVERFRONT DEVELOPMENT PROJECTS (NIEMEYER R)** Provides that a municipal riverfront development project may include a project that borders a lake that is at least 750 acres and is completely within the boundaries of a municipality.

*Current Status:* 4/12/2021 - Senate Bills on Third Reading

*State Bill Page:* [SB 280](#)

**SB 336**

**BUSINESS PERSONAL PROPERTY TAX EXEMPTION (FREEMAN A)** Increases, from \$40,000 to \$60,000, the acquisition cost threshold for the business personal property tax exemption.

*Current Status:* 4/14/2021 - , (Bill Scheduled for Hearing); **Time & Location:** 9:30 AM, Rm. 233

**SB 349**

**FINANCING, TRANSFER, AND IMPROVEMENT OF UTILITY ASSETS** (KOCH E) Requires that the priority ranking system used by the Indiana finance authority in making loans or other financial assistance from: (1) the drinking water revolving loan fund; or (2) the wastewater revolving loan fund; must prioritize loans securing longer term benefits over shorter term projects, all other factors being equal. Provides that not later than 60 days after the effective date of a change in the applicable federal or state income tax rate as a result of new legislation, a water or wastewater utility shall petition the utility regulatory commission (IURC) for a water or wastewater utility surcharge that adjusts the water or wastewater utility's rates and charges to provide recovery for the change in the federal or state income tax rate. Provides that a water or wastewater utility that serves fewer than 8,000 customers may, but is not required to, file a petition for such a surcharge. Provides that a surcharge shall be calculated to reflect the difference between: (1) the amount of federal or state income taxes that each existing rate or charge of the water or wastewater utility was designed to recover based on the income tax rate in effect at the time the rate or charge was approved; and (2) the amount of federal or state income taxes that would have been embedded in the given rate or charge had the new tax rate been in effect at the time of approval. Provides that a surcharge shall not include normalization of a water or wastewater utility's accumulated deferred income taxes. Provides that the IURC shall approve a proposed surcharge if the IURC finds that: (1) the surcharge has been calculated correctly; and (2) the water or wastewater utility's proposal is just and reasonable. Provides that an approved surcharge shall operate on a prospective basis. Amends the applicability language of the statute governing the transfer, acquisition, and improvement of utilities by municipalities to specify that the statute applies to a municipally owned electric, water, wastewater, or combined water and wastewater utility.

*Current Status:* 4/12/2021 - Concurrences Eligible for Action

*State Bill Page:* [SB 349](#)

**SB 382**

**ENTREPRENEUR AND ENTERPRISE DISTRICT PILOT PROGRAM** (BUCHANAN B) Extends the duration of the entrepreneur and enterprise district pilot program (program) until the later of: (1) five years after the date on which it is designated as a district; or (2) December 31, 2024. (Currently, the program is set to expire in 2022.) Requires specific reporting requirements for the program established in the city of Fort Wayne.

*Current Status:* 4/6/2021 - Senate Concurred in House Amendments ; Roll Call 364: yeas 50, nays 0

*State Bill Page:* [SB 382](#)

**SB 383**

**VARIOUS TAX MATTERS** (HOLDMAN T) Among other things:

- Requires a corporation with gross income of more than \$1,000,000 to file its corporate income tax return in an electronic manner specified by the department of state revenue (department).
- Provides a sales tax exemption for a utility scale battery energy storage system. Provides a sales tax exemption for public safety equipment and materials.
- Provides certain procedures for reporting federal partnership audit adjustments for purposes of the state adjusted gross income tax and financial institutions tax in order to conform with changes in federal law.
- Provides that the department of state revenue (department) may prescribe procedures: (1) by which a pass through entity remits tax; (2) for persons or entities that are otherwise subject to withholding but that may have circumstances such that standard tax computation may result in excess withholding; (3) for individuals and trusts that are residents for part of the taxable year and nonresidents for part of the taxable year; and (4) by which an entity may request alternative withholding arrangements.
- Requires a utility provider to maintain records sufficient to document each one to one meter change. Allows a person to request that the department reissue an exemption certificate

with a new meter number in the event of a one to one meter change.

- Clarifies that an individual's estimated income tax filing and payment requirements include local income taxes. Clarifies the penalty calculation for failure to make estimated tax payments, including estimated utility receipts tax and financial institutions tax payments.
- Provides that a taxpayer may elect to claim a tax credit against the taxpayer's Indiana adjusted gross income tax liability for the amount of tax that is imposed in a foreign country but not due from the taxpayer under the laws of that foreign country until a tax year after the tax year in which the income subject to the foreign country's tax is included in the taxpayer's Indiana adjusted gross income (provides for retroactive application to tax years beginning after December 31, 2016).
- Sets a floor on the periodic change in the gasoline tax and the special fuel tax rates each year of not less than the rates in the preceding year.
- Provides that the provision in current law requiring an out-of-state merchant to collect sales tax on retail transactions made in Indiana if certain threshold conditions are met extends to the following: (1) The waste tire management fee. (2) The fireworks public safety fee. (3) The prepaid wireless service charge.
- Provides that the township trustee shall serve as an ex officio member of the township board for the purpose of casting the deciding vote to break a tie vote on the adoption of a township's budget and tax levies.
- Delays the expiration of provisions providing that a local income tax council for a county with a single voting bloc must vote as a whole in order to exercise its authority to increase (but not decrease) a local income tax rate in the county.

Provides that a taxpayer who received unemployment compensation in the taxable year 2020 is entitled to a state income tax deduction equal to the lesser of: (1) the amount of the unemployment compensation that is excluded from the taxpayer's federal gross income under the recently passed American Rescue Plan Act of 2021 (ARPA); or (2) \$10,200 (which is the cap on the federal exclusion amount under that act). Requires the office of management and budget to report on actual and proposed uses of ARPA funds. Requires the governor to annually make a proposal concerning the disposition of excess state reserves and ARPA funds to the state budget committee and the general assembly. Makes technical corrections.

*Current Status:* 4/13/2021 - , (Bill Scheduled for Hearing); **Time & Location:** 4:00 PM, Rm. 431

*State Bill Page:* [SB 383](#)

### **SB 385**

**ADDITIONAL PROFESSIONAL SPORTS DEVELOPMENT AREA (SANDLIN J)** Provides that an additional professional sports development area in Marion County must be established before July 1, 2024 (instead of July 1, 2022). Provides that taxes may not be collected in the additional professional sports development area until after the earlier of: (1) certain conditions having been met; or (2) June 30, 2023 (instead of June 30, 2021).

*Current Status:* 4/1/2021 - **SIGNED BY GOVERNOR**

*State Bill Page:* [SB 385](#)

### **SB 386**

**COST SECURITIZATION FOR ELECTRIC UTILITY ASSETS (KOCH E)**

- Provides that an electric utility that has certain qualified costs that: (1) are associated with an electric generation facility that will be retired from service within 24 months; and (2) are equal to at least 5% of the electric utility's total electric base rate; may file a petition with the utility regulatory commission (IURC) for a financing order authorizing the securitization of the qualified costs. Provides that an "electric utility", for purposes of the bill, is a public utility that: (1) owns or operates any electric generation facility for the provision of electric utility service to Indiana customers; (2) is under the jurisdiction of the IURC; and (3) has a total of not more than 200,000 retail electric customers.

- Provides that not later than 240 days after a petition for a financing order is filed, the IURC shall conduct a hearing and issue an order on the petition.
- Provides that in issuing a financing order for cost securitization, the IURC must find that: (1) the electric utility has proposed a reasonable mechanism to reflect a reduction in the electric utility's base rates and charges upon the assessment of securitization charges on customer bills, so as to remove any qualified costs from the electric utility's base rates; and (2) the mechanism will provide timely rate savings for customers. Provides that in issuing a financing order for cost securitization, the IURC must find that the electric utility will make capital investments in Indiana in an amount equal to or exceeding the amount of the electric utility's qualified costs, over a period of not more than seven years immediately following the issuance date of the securitization bonds. Provides that if the IURC makes the required findings with respect to the petition, the IURC shall issue a financing order that authorizes: (1) the issuance of securitization bonds with a term of not more than 20 years; (2) the collection of securitization charges from the electric utility's customers; and (3) the encumbrance of the resulting securitization property with a lien and security interest.
- Provides that qualified costs authorized in a financing order shall be allocated to the electric utility's customer classes using the same cost allocation methodology approved by the IURC in the electric utility's most recent base rate case, subject to certain exceptions. Provides that if an electric utility does not cause securitization bonds to be issued not later than 90 days after the date of a final, non-appealable financing order, the electric utility shall file a statement of abandonment with the IURC stating the reasons for the abandonment.
- Provides that a financing order issued by the IURC under these provisions must include a mechanism: (1) requiring that securitization charges be reviewed and adjusted by the IURC at least annually; and (2) allowing an electric utility, on its own initiative, to apply to the IURC at any time during a calendar year for an adjustment of its securitization charges, as the electric utility determines to be necessary; to correct any over collections or under collections of securitization charges, and to ensure the recovery of amounts sufficient to timely make all payments of debt service in connection with the securitization bonds.
- Sets forth provisions concerning the encumbrance of securitization property with a lien and security interest, including provisions concerning: (1) the attachment and perfection; and (2) the priority; of a security interest in securitization property. Specifies that securitization bonds are not: (1) a debt or obligation of the state; or (2) a charge on the state's full faith and credit or on the state's taxing power.
- Pledges that the state will not: (1) take or permit any action that would impair the value of securitization property; or (2) reduce, alter, or impair related securitization charges; until certain obligations in connection with the related securitization bonds have been paid or performed in full. Requires the IURC to adopt rules to implement these provisions.
- Urges the legislative council to assign to the interim study committee on energy, utilities, and telecommunications (committee) the task of studying during the 2022 legislative interim: (1) the implementation; and (2) use by electric utilities; of the bill's provisions concerning the securitization of costs for retired electric utility assets. Provides that if the committee is assigned to study this topic, the committee: (1) shall consider available data and other information concerning participating electric utilities to which the IURC has issued a financing order under the bill's provisions; (2) may request this data and information from certain parties; and (3) shall, not later than November 1, 2022, submit to the legislative council a report setting forth the committee's findings and recommendations, including the committee's recommendations as to whether to allow, under the bill's provisions, additional electricity suppliers to securitize costs associated with retired electric utility assets.

**Current Status:** 4/1/2021 - Senate Concurred in House Amendments ; Roll Call 324: yeas 48, nays 0

**State Bill Page:** [SB 386](#)

the legislative body and the board of zoning appeals (BZA) of Lawrence, Speedway, Southport, and Beech Grove in Marion County (excluded city) have exclusive territorial jurisdiction within the excluded city's boundaries. (2) Require (rather than allow) the excluded city legislative body to conduct a hearing, acting as the plan commission, on a proposed zone map amendment affecting property within the excluded city. Provides that the excluded city legislative body (instead of the consolidated city and county legislative body) makes the decision regarding the zone map amendment. (3) Allow a member of the excluded city legislative body to appeal a decision of the BZA to the excluded city legislative body. (4) Provide that the excluded city legislative body's decision on the appeal is subject to judicial review. Requires all townships to be represented across all the divisions of the board of zoning appeals. Provides that not more than two members appointed to each division of the board of zoning appeals may be residents of the same township. Requires the appointing authority to consult with the township executive regarding the appointments. Requires appeals and applications for variances, special exceptions, special uses, contingent uses, and conditional uses to be allocated to a division of the board of zoning appeals that has at least one member who is a resident of a township in which the property is located that is the subject of the appeal or application.

***Current Status:*** 4/12/2021 - Concurrences Eligible for Action

***State Bill Page:*** [SB 392](#)