

# FAEGRE BAKER DANIELS

2019 Indiana Legislative Update #11

## BOMA Indianapolis



***April 15, 2019***

The House and Senate are wrapping up work on bills passed by the other chamber. Today (April 15) is the deadline for Senate bills to pass the House, and tomorrow (April 16) is the final day for the Senate to take action on House bills. State lawmakers are gearing up for a targeted adjournment date of Wednesday, April 24, although by law they have up until midnight on Monday, April 29 to pass a budget and complete their other work.

Last week was a frenzy of activity as committees in the House and Senate worked long hours to move bills to the floor. Early in the week, the House Ways & Means Committee met into the night to amend and approve massive measures that would (among other things) allow a casino to open in Terre Haute, authorize sports wagering, and establish a funding mechanism for an expansion of the Indiana Convention Center and a soccer stadium in Indianapolis.

By Thursday, however, all eyes were on the Senate side as the Senate GOP's version of the budget was unveiled in the Appropriations Committee. [A summary of the Senate version of House Bill 1001 is attached.](#)

Following are updated summaries of bills of potential interest to BOMA that are still alive as of today. As you will see, 10 of the 27 bills on the tracking list are in conference committee, and additional bills will likely be sent to conference committees as the week progresses.

During the conference committee process, a Republican and Democrat legislator is appointed from each chamber and charged with the task of attempting to iron out the differences between the House-passed and Senate-passed versions of a bill. A conference committee meeting on House bills can meet upon two hours notice; Senate conference committees only require one hour advance notice. And once the conference committee convenes, all bets are off, because under the legislature's rules, legislation that died in the second chamber may be brought back to life in a conference committee report on another bill.

Although electronic posting and streamed hearings have improved the transparency of the process, conferences committees remain the "Wild West" of the legislative process.

## TAX & FINANCIAL ISSUES

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**HB 1001 STATE BUDGET (HUSTON T)** See attached summary  
*Current Status:* 4/15/2019 - House Bills on Second Reading  
*State Bill Page:* [HB 1001](#)

**HB 1177 TOWNSHIP GOVERNMENT ISSUES (ZIEMKE C)**

- Requires a township to prepare a capital improvement plan for at least the ensuing three years if the balance in certain capital improvement funds in the preceding year exceeds both of the following: (1) 150% of the township's annual budget estimate. (2) \$200,000. Prohibits the township from collecting property taxes for certain capital improvement funds in the ensuing year unless the township has adopted a capital improvement plan. Allows a township to make a one time transfer of an excess balance or part of an excess balance between township funds. Provides that the transfer may not be completed until after the township adopts a capital improvement plan, if the township is required to adopt a capital improvement plan. Requires the transfers must be completed not later than September 1, 2020.
- Provides that if an eligible municipality petitions an adjacent township to accept the transfer of the territory of the eligible municipality that is within the transferor township, the legislative body of the adjacent township must accept transfer of the territory of an eligible municipality within two years (instead of one year) after the legislative body receives the petition. Repeals a provision that prohibits the transfer of territory from taking effect in the year before a federal decennial census is conducted.

*Current Status:* 4/15/2019 – IN CONFERENCE COMMITTEE  
*State Bill Page:* [HB 1177](#)

**HB 1427 LOCAL GOVERNMENT MATTERS (LEONARD D)** Among other things:

- Amends the definition of "owner" (for purposes of the property tax statutes) to delete the provision specifying that an owner of tangible property includes the holder of a tenancy for a term of years.
- Specifies the calculation of the acquisition cost of depreciable personal property acquired in like kind exchange for personal property tax purposes. Specifies that if a penalty is imposed on a taxpayer for failing to declare on the taxpayer's tax return that the taxpayer is entitled to the exemption for business personal property with an acquisition cost of less than \$20,000, the county shall include the penalty on a property tax bill associated with the tax district in which the majority value of the taxpayer's business personal property within the county is located.
- Requires that the budget notice that political subdivisions must publish on the DLGF's computer gateway must also include information concerning the percentage change between the current and proposed tax levies of each fund.
- Provides that a person seeking a property tax exemption for property used for a charitable purpose may file an exemption application up to 30 days following the statutory deadline for the exemption application if the person pays a late filing fee.
- Specifies that for purposes of attributing the amount of a property tax deduction or exemption to the gross assessed value of a property: (1) a deduction or exemption that is specific to an improvement shall be applied only to the assessed value allocation pertaining to that improvement; and (2) to the extent that a deduction or exemption is not specific to an improvement, the deduction or exemption shall be applied in the order that will maximize the benefit of the deduction or exemption to the taxpayer.

*Current Status:* 4/15/2019 - House Bills on Third Reading

**SB 7 MARION COUNTY CAPITAL IMPROVEMENT BOARD (MISHLER R)**

- Provides for the expansion of the professional sports development area (tax area) in Marion County. Provides for the capture of covered taxes in the expanded tax area.
- Authorizes the city-county council to adopt a resolution that continues imposition of the increase to the county supplemental auto rental excise tax through December 31, 2040. Authorizes the city-county council to adopt a resolution that continues imposition of the increase to the county admissions tax through December 31, 2040. Authorizes the city-county council to adopt a resolution that continues the capture of local income taxes attributable to the tax area through December 31, 2040.
- Provides that revenues available for deposit in the sports and convention facilities operating fund may be pledged to secure and provide for the payment of bond or lease obligations of the board.
- Provides that Marion County capital improvement board may not use revenue derived from local or state taxes to finance, construct, or in any way subsidize the construction of meeting or ballroom space related to a privately owned hotel.
- Permits the Indianapolis metropolitan development commission or capital improvement board to adjust the equal opportunity percentages to reflect the results of a disparity study conducted by the City of Indianapolis.
- Provides that if restricted deposits are insufficient to fully repay the board's obligations, revenues collected by the board from certain taxes must be used.
- Establishes an additional professional sports development area in Marion County to capture state and local revenue for capital improvements. Provides for the issuance of indebtedness to finance a multipurpose soccer stadium subject to budget committee review.
- Provides that the Indiana stadium and convention building authority, the Marion County capital improvement board, and the Marion County convention and recreational facilities authority may not require a contractor or a subcontractor to enter into a contract limitation and may not grant a public benefit relating to any project that is financed in whole or in part from funds derived from the establishment of a new tax area under the bill. Provides that any such provisions are void.
- Strikes a provision requiring the Indiana stadium and convention building authority to enter into project labor agreement on all projects.
- Establishes the legacy project, which must be located at an Indianapolis parks and recreation department location located within a four mile radius of the Soldiers' and Sailors' Monument in Indianapolis.

*Current Status:* 4/11/2019 - Third reading passed; Roll Call 499: yeas 79, nays 13

*State Bill Page:* [SB 7](#)

**SB 233 BUSINESS PERSONAL PROPERTY TAX EXEMPTION (FREEMAN A)**

- Provides that not later than 30 days prior to the filing date, the appropriate assessor shall provide notification to each person whose personal property is subject to assessment.
- Increases, from \$20,000 to \$40,000, the acquisition cost threshold for the business personal property tax exemption. Specifies that a taxpayer who is eligible for a personal property tax exemption must include on the taxpayer's personal property tax return: (1) information concerning whether the taxpayer's business personal property within the county is in one location or multiple locations; and (2) an address for the location of the property.
- Provides that the appropriate county officer designated by the county executive (rather than the assessor, under current law) is responsible for: (1) maintaining data files of the

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

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

*Current Status:* 4/18/2019 – IN CONFERENCE COMMITTEE

*State Bill Page:* [SB 233](#)

**SB 535 EXTRATERRITORIAL POWERS OF CITIES AND TOWNS; EMINENT DOMAIN (BOOTS**

P) Among other things:

- Repeals the general authority of a city or town (municipality) to exercise the following powers outside of its corporate boundaries: (1) Regulating conduct or property use endangering public health, safety, and welfare. (2) Capturing and destroying animals. (3) Operating recreational parks and exercising eminent domain to acquire property for park purposes.
  - Provides that the repeal of the general statute relating to exercise of corporate powers outside the boundaries of a municipality: (1) does not void an ordinance or resolution regulating dangerous conduct or property if the ordinance or resolution was adopted before January 1, 2019; and (2) voids such an ordinance or resolution adopted after December 31, 2018. Provides that the validity of such an ordinance or resolution may be challenged in a legal proceeding.
  - Provides that the repeal of the general statute relating to exercise of corporate powers outside the boundaries of a municipality voids an ordinance or resolution adopted before July 1, 2019, that: (1) restricts persons or animals that might cause injury or disease; or (2) establishes, maintains, or operates animal shelters.
- Provides that a municipality may only exercise eminent domain within the municipality unless a statute expressly provides otherwise.
  - Allows a municipality to continue to exercise eminent domain to acquire property outside its boundaries, if it has reached a specified point in the eminent domain proceedings on January 1, 2019.
- Provides that a municipal airport board may exercise the power of eminent domain within four miles outside the corporate boundaries of the municipality. Provides that with regard to an airport in existence on January 1, 2019, the board may exercise eminent domain to acquire land contiguous to the airport that is located more than four miles outside the boundaries of the municipality.
- Repeals a provision that allows a municipality to exercise powers regarding watercourses within 10 miles outside its corporate boundaries. Provides that the repeal of the provision that allows a municipality to exercise powers regarding watercourses within 10 miles outside its corporate boundaries does not prohibit a municipality's ability to take water from a watercourse within the 10 mile area outside its corporate boundaries.
- Provides that for comprehensive plans that were initially adopted before July 1, 2019, if the municipal plan commission provided in its comprehensive plan for the development of a contiguous unincorporated area that is outside the corporate boundaries of the municipality, the municipal plan commission may continue to exercise territorial jurisdiction over that area unless the jurisdiction of the municipal plan commission is terminated as provided by law.
- Provides that for comprehensive plans that are initially adopted after June 30, 2019: (1) If the municipality is located in a county that has not adopted a comprehensive plan covering the contiguous unincorporated area and the municipality is providing municipal services to the contiguous unincorporated area, the municipal plan commission may exercise territorial jurisdiction over that area by filing certain notices. (2) If the municipality is located in a

county that has adopted a comprehensive plan and ordinance covering the contiguous unincorporated area, the municipal plan commission may exercise territorial jurisdiction over that area only if it obtains the approval of the county legislative body of each affected county.

*Current Status:* 4/15/2019 – IN CONFERENCE COMMITTEE

*State Bill Page:* [SB 535](#)

**SB 563 ECONOMIC DEVELOPMENT (HOLDMAN T)**

- **Small business innovation voucher program:** Establishes the small business innovation voucher program (program) to provide vouchers to eligible small businesses to be used by the business to purchase research and development support or other forms of technical assistance and services from an Indiana institution of higher education or other authorized research provider. Provides that the Indiana economic development corporation (IEDC) shall administer the program. Provides that the program is subject to appropriation from the general assembly.
- **Adjusted gross income tax:** Amends the definition of "sales" and adds a definition of "telecommunication services" and "broadcast services" under the state adjusted gross income tax provisions. Amends the provisions for determining when sales, other than sales of tangible personal property, are derived from sources within Indiana for purposes of determining the state adjusted gross income of corporations and nonresident persons.
- **Mutual economic assistance:** Provides that the IEDC may enter into an agreement for mutual economic assistance and a payment agreement with similar agency or body of a state bordering Indiana.
- **Industrial recovery tax credit:** Provides that a taxpayer (with certain exceptions) is not entitled to receive an industrial recovery tax credit for a qualified investment made after December 31, 2019.
- **EDGE tax credits:** Amends the definition of "incremental income tax withholdings" for purposes of the economic development for a growing economy tax credit to accommodate nonresident employees covered by a mutual economic assistance agreement and payment agreement.
- **Community revitalization enhancement districts:** Permits a taxpayer to claim an income tax credit for qualified investments made after a community revitalization enhancement district has expired if the taxpayer satisfies certain conditions.
- **Venture capital tax credit:** Allows a taxpayer to assign all or part of a venture capital investment tax credit, subject to certain limitations.
- **Hoosier business investment tax credit:** Amends the definition of "qualified investment" under the Hoosier business investment tax credit to include the purchase of: (1) retooled or refurbished machinery; (2) new energy conservation and pollution control equipment; and (3) new onsite digital manufacturing equipment. Adds state gross retail and use taxes to the types of taxes against which a taxpayer may claim a Hoosier business investment tax credit. Provides that an owner of a pass through entity may not claim the Hoosier business investment tax credit against the state gross retail and use tax paid by the owner, and that the credit may not be claimed against the state gross retail and use tax collected and remitted by a taxpayer as a retail merchant. Provides that the Hoosier business tax investment credit for new onsite digital manufacturing equipment for a tax credit is not to exceed 25% of the qualified investment and for a limited time period.
- **Headquarters relocation tax credit:** Amends the headquarters relocation tax credit to extend the credit to an eligible business that: (1) acquired at least \$4,000,000 in venture capital within either six months prior to or six months after applying for the credit; and (2) commits to: (A) relocating its headquarters to Indiana; or (B) relocating the number of jobs that equal 80% of the business's payroll to Indiana. Provides that the total amount of headquarters relocation tax credits that may be approved in a state fiscal year for all eligible

businesses that qualify for the tax credit under the new provision may not exceed \$5,000,000.

- **Redevelopment tax credit:** Establishes the redevelopment tax credit (credit). Requires a taxpayer to apply to the IEDC for the credit. Provides that a taxpayer may claim a credit against state tax liability if: (1) the taxpayer makes a qualified investment for the redevelopment or rehabilitation of real property located within a qualified redevelopment site; and (2) the qualified investment is approved by the IEDC. Provides that the amount of the credit is equal to: (1) the qualified investment made by the taxpayer and approved by the IEDC in an agreement; multiplied by (2) the applicable credit percentage determined by the IEDC. Specifies the maximum applicable credit percentages that apply to qualified investments. Caps the redevelopment tax credit at \$50,000,000 per state fiscal year with certain exceptions. Allows a taxpayer to assign all or part of a redevelopment tax credit, subject to certain limitations. Authorizes the IEDC to include in an agreement for the tax credit provisions that require the taxpayer to repay all or part of a credit awarded over a period of years. Provides that an agreement for the redevelopment tax credit must include a repayment provision for the amount of any credit award that exceeds \$10,000,000. Requires the IEDC to establish measurements for evaluating the performance of the redevelopment tax credit and evaluate the tax credit program on a biennial basis. Requires the IEDC to collect data on the effectiveness of an assignment of both the venture capital investment tax credit and the redevelopment tax credit and report its findings to the legislative council before November 1, 2022.
- **Certified technology parks:** Changes the recertification period for certified technology parks from three years to four years. Provides that once a certified technology park reaches its cap, an additional amount equal to incremental income taxes shall be captured. Requires a redevelopment commission that has designated a third party manager or operator of a certified technology park to transfer to the manager or operator the amount owed within 30 days of receiving a distribution.
- **Regional airport study:** Urges the legislative council to assign to an appropriate interim study committee the task of studying the development of regional airports throughout Indiana.

*Current Status:* 4/15/2019 – IN CONFERENCE COMMITTEE

*State Bill Page:* [SB 563](#)

**SB 565 VARIOUS INCOME TAX MATTERS AND REGIONAL DEVELOPMENT AUTHORITIES (HOLDMAN**

T) Among other things:

- Provides that the department of state revenue (department) may deny an application for a registered retail merchant's certificate in certain circumstances.
- Specifies the requirements necessary for a taxpayer to discontinue filing a combined income tax return.
- Updates the income tax reference to the Internal Revenue Code in effect on January 1, 2019. Revises provisions concerning income under Section 118, Section 163, and Section 965 of the Internal Revenue Code. Clarifies the treatment of a loss for a taxable year disallowed because of Section 461(l) of the Internal Revenue Code (IRC) in determining an Indiana net operating loss deduction. Modifies the adjustment to Indiana adjusted gross income for certain property involved in a like-kind exchange for which a taxpayer claims a federal deduction under Section 179 of the IRC. Modifies, for purposes of determining Indiana adjusted gross income, an amount treated as bonus depreciation under IRC Section 168(k) for certain property involved in a like-kind exchange. Changes the order in which the department is required to apply a taxpayer's partial payment to the taxpayer's tax liability, penalties, and interest. Provides that the revised ordering of payments applies to taxable periods beginning after December 31, 2019. Specifies the taxable years to which the adjusted gross income tax changes and the financial institutions tax changes apply.
- Requires the department to establish an annual tax rate for the utility receipts tax and the

utility services use tax by determining a tax rate that would maintain tax revenue at the state fiscal year 2018 amount.

- Converts the heavy equipment rental excise tax in current law to an equipment rental excise tax that, when applicable, covers a wider range of rental equipment. Allows a retail merchant engaged in the business of renting equipment to make an annual election to have the equipment rental excise tax apply to the rental of the retail merchant's rental equipment. Provides that a retail merchant who elects to have the equipment rental excise tax apply to the retail merchant's rental transactions for a calendar year is eligible to receive a 100% property tax deduction on the retail merchant's rental equipment for the calendar year.
- Revises the criteria for which governmental entities may form a regional development authority (new style RDA) under the general regional development authority statute. Preserves regional development authorities formed before July 1, 2019 (old style RDA). Provides that the development board of a new style RDA is comprised of the executives of the member counties, cities, and towns of the RDA. Provides that the fiscal bodies of members of a new style RDA must adopt a development authority plan. Provides that a county, city, or town that is a member of a new style RDA must, after June 30, 2021, impose either: (1) the special local income tax rate for members of a regional development authority at the local income tax rate specified in the development authority plan; or (2) the regional development food and beverage tax at the food and beverage tax rate specified in the development authority plan. Allows an old style RDA to elect to be governed as a new style RDA.

*Current Status:* 4/15/2019 – IN CONFERENCE COMMITTEE

*State Bill Page:* [SB 565](#)

## UTILITIES & THE ENVIRONMENT

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### HB 1278 VARIOUS ENVIRONMENTAL MATTERS (WOLKINS D) Among other things:

- Authorizes the board to adopt rules that increase the amounts of environmental fees. Requires the board, in changing the amount of a fee, to take into account the cost to IDEM of amendments, modifications, and renewals of a permit, license, or approval.
- Provides that a fee established by the board for a type or class of permit: (1) may be set at a particular amount in consideration of the type and amount of discharge or emission to which the permit relates; and (2) may not be different in amount for public sector permit holders than for private sector permit holders unless the difference is specifically authorized by law.
- Requires IDEM to arrange for an independent study of certain IDEM costs and to develop other information relevant to fees.
- Provides that all fee amounts set forth numerically in Title 13 of the Indiana Code are minimum amounts and that the board may increase the amount of a fee even though the minimum amount of the fee is set forth numerically in Title 13. Provides that the board may not increase an environmental fee: (1) more than once in five years; or (2) by more than 10%.
- Requires the board to adopt rules to implement a one-time increase in fees before January 1, 2022, and provides that: (1) the increase in the confined feeding operation, NPDES, safe drinking water act, solid waste, and hazardous waste program fees must be calculated to cause an increase in annual aggregate fee revenue of \$2,200,000; and (2) the increase in the air pollution control program fees must be calculated to cause an increase in annual aggregate fee revenue of \$2,000,000.

*Current Status:* 4/15/2019 - House Bills on Second Reading

*State Bill Page:* [HB 1278](#)

### HB 1347 MUNICIPALLY OWNED UTILITIES (BURTON W)

- Provides that all rates, charges, and other fees for services rendered by a municipally owned utility (other than services rendered by a municipally owned sewer utility or by a department of public utilities for a consolidated city) to property occupied by someone other than the owner are payable by the person occupying the property if the account or other customer or billing records maintained by the utility for the property indicate that: (1) the property is occupied by someone other than the owner; and (2) the person occupying the property is responsible for paying the rates, charges, and fees.
- Provides that upon applying for utility service from a municipally owned utility, the person occupying the property shall provide the utility with the name and contact information of the owner or manager of the property.
- Provides that rates, charges, and fees assessed by a municipally owned utility with respect to property occupied by someone other than the owner do not constitute a lien against the property.
- Specifies that these provisions do not: (1) prohibit a municipal legislative body from imposing any requirement to: (A) ensure payment by; or (B) the creditworthiness of; the person occupying the property; or (2) abrogate or limit the authority of the owner of a multi-unit building to engage in electrical submetering.

*Current Status:* 4/11/2019 - Signed by the Speaker

*State Bill Page:* [HB 1347](#)

**HB 1406 WATER INFRASTRUCTURE ASSISTANCE FUND AND PROGRAM (SOLIDAY E)**

- Provides that money from certain sources in the water infrastructure assistance fund (fund) is continuously appropriated for the purposes of the law concerning the water infrastructure assistance program.
- Authorizes the authority to establish: (1) the interest rate; or (2) parameters for establishing the interest rate; on each loan made from the fund. Provides that a participant, to receive a loan, grant, or other financial assistance from the fund: (1) must have an asset management program; and (2) must demonstrate to the authority that it has a plan to participate with one or more other participants in cooperative activities.
- Provides that a participant, after receiving a loan or grant from the fund, must maintain its asset management program: (1) as long as the loan remains unpaid; or (2) during the useful life of the asset financed with the loan or grant. Requires a participant, if appropriate, to conduct or participate in efforts to determine and eliminate the causes of non-revenue water in its water distribution system.
- Requires the authority to establish a project prioritization system and project priority list for the purposes of awarding loans and grants from the fund. Requires the authority to set aside 40% of the fund for purposes of providing grants, loans, and other financial assistance to or for the benefit of utilities serving less than 3,200 customers. Authorizes the authority to provide advisory services to participants in connection with loans from the fund. Provides that, if appropriate, the authority shall require a participant receiving a loan or other financial assistance from the fund to establish and maintain sufficient user charges, fees, taxes, special assessments, or revenues to: (1) operate and maintain; and (2) pay the obligations of; its water or wastewater collection and treatment system.
- Authorizes the authority to make loans or provide other financial assistance from the fund to or for the benefit of a participant to establish guaranties, reserves, or sinking funds or for other purposes. Authorizes the authority, as an alternative to making loans or providing other financial assistance to participants, to use the money in the fund to provide a leveraged loan program and other financial assistance programs to or for the benefit of participants.

*Current Status:* 3/28/2019 - Returned to the House without amendments

*State Bill Page:* [HB 1406](#)

**SB 4****WATER AND WASTEWATER UTILITIES AND RUNOFF (CHARBONNEAU E)**

- Establishes a storm water management task force to study issues related to storm water management systems. Provides for the task force to consist of: (1) two members of the senate; (2) two members of the house; and (3) other members appointed by the governor. Requires the task force to issue a report setting forth its findings and recommendations not later than December 1, 2019.
- Requires the governor to appoint a water data officer. Requires the water data officer to: (1) serve as the executive branch coordinator of water related programs and activities of the state; (2) advise executive state agencies and political subdivisions regarding best practices concerning the coordination of funding streams and incentives to achieve comprehensive water related data collection and regional collaboration in water and wastewater service; and (3) coordinate data analytics and transparency master planning regarding investment, affordability, supply, and economic development related to water and wastewater service.
- Requires the Indiana finance authority (IFA) to divide the state of Indiana into study areas and to hold annual meetings with the officers and employees of the water and wastewater utilities located in each study area. Authorizes the utilities within a study area to meet voluntarily to determine area water and wastewater priorities, promote cooperation among the utilities, and consider other matters. Requires biennial reports from the utilities of each study area and from the IFA on the cooperative activities of the utilities. Provides that a utility applying to the IFA for a loan, a grant, or other financial assistance must demonstrate that its officers and employees have participated in study area activities.
- Requires every water utility, at least once in each calendar year, to perform an audit of its water distribution system to determine the causes of the water utility's "non-revenue water" (the difference between the amount of water entering the utility's distribution system and the amount of water received by the water utility's customers). In even-numbered years, requires the results of the annual audit to be verified by an independent evaluator and reported to the IFA and requires the IFA to issue a report concerning the audit results.
- Provides that, under certain circumstances, a permit may be issued for the operation of a public water system or for the discharge from a wastewater treatment plant without a certification that a life cycle cost-benefit analysis, a capital asset management plan, and a cybersecurity plan have been prepared. Provides that an applicant for or holder of a permit for the operation of a water or wastewater treatment plant may withhold information in a life cycle cost-benefit analysis or capital asset management plan from public disclosure if the information could be excepted from inspection and copying at the discretion of a public agency under the public records law.
- Amends the definition of "customer lead service line improvement".

**Current Status:** 4/10/2019 - **SIGNED BY GOVERNOR**

**State Bill Page:** [SB 4](#)

**SB 193****SEWER AND WATER CONNECTIONS (BOHACEK M)**

- Provides that a unit may not prohibit a property owner from installing a sewer line or other sewage works: (1) in or through a public right-of-way owned or controlled by the unit; and (2) for the purpose of connecting the owner's property to a sewer system owned or operated by another unit or entity; if the owner provides to the unit a written determination from a specified authority that the owner's existing sewage disposal system is failing, and if certain other conditions are met.
- Provides that in the case of a connection to a sewer system made under these provisions, a municipality (or a board of sanitary commissioners for the department of sanitation in certain municipalities) that owns or operates the sewer system to which the connection is made may waive the requirement that the property owner must release the property owner's right to remonstrate against pending or future annexations of the property owner's property by the

municipality.

- Provides that a unit may not prohibit a property owner from installing a water service line or other water utility service infrastructure: (1) in or through a public right-of-way owned or controlled by the unit; and (2) for the purpose of connecting the owner's property to a waterworks owned or operated by a water utility other than a water utility owned or operated by the unit; if the property owner's property is served by a private water well, and if certain other conditions are met.

*Current Status:* 4/15/2019 - Third reading passed; Roll Call 512: yeas 77, nays 13

*State Bill Page:* [SB 193](#)

## **SB 460 BROADBAND DEVELOPMENT (MESSMER M)**

- Establishes the rural broadband fund for the purpose of awarding grants: (1) before August 1, 2019, under the existing statute governing grants for qualified broadband projects for unserved areas in Indiana; and (2) after July 31, 2019, under new procedures governing grants for eligible broadband projects for rural areas in Indiana. Requires the office of community and rural affairs (office) to establish procedures for the awarding of grants from the fund after July 31, 2019, by state agencies to eligible broadband service providers for eligible broadband projects in rural areas of Indiana. Provides that the procedures established by the office must establish specified priorities for the awarding of grants, based on the available Internet speeds in a particular area. Provides that the procedures established by the office may not permit the awarding of a grant from the fund for any proposed broadband project in an area in which eligible broadband service is available. Provides that the procedures established by the office may not permit the office to award a grant from the fund for any project in a rural area for which funding has been allocated from certain federal funding programs. Provides that the procedures established by the office must establish a system of priorities for awarding grants, weighted as determined by the office in guidelines adopted by the office, that gives preference to eligible broadband projects that meet certain specified criteria.
- Requires an eligible broadband service provider awarded a grant to sign with the office a grant agreement that: (1) outlines a start date and an end date for completion of the project; and (2) conditions the release of any grant funds on the progressive completion of the project.
- Beginning in 2020, requires the office to submit to the general assembly an annual report on the awarding of grants under these procedures during the most recent state fiscal year. Provides that every three years, beginning in 2021, the state board of accounts shall conduct an audit of the awarding of grants from the fund during the most recent three state fiscal years.
- Provides that a communications service provider that holds a certificate of territorial authority shall be designated as a public utility solely as that term is used in federal law that allows a state to exempt a public utility from the federal law's requirement that the state must charge fair market value for the use of real property acquired by the state using federal transportation funding.
- Provides that the department of transportation (INDOT) may not charge an access rate or any other recurring charge or recurring fee for communications infrastructure that is located before May 1, 2019, in any rights-of-way that are owned or controlled by INDOT. Specifies that INDOT may charge routine right-of-way permit fees to enter INDOT's rights-of-way for the maintenance of existing facilities. Provides that the department may create a broadband corridor program to manage communications infrastructure along or within limited access highway rights-of-way. Specifies that for purposes of the broadband corridor program, "communications infrastructure" does not include privately owned vertical structures used primarily for providing wireless communications service.
- Provides that: (1) INDOT may not unreasonably discriminate among entities requesting

access to broadband corridors or other INDOT controlled rights-of-way; and (2) the bill's provisions prohibiting INDOT from discriminating among such entities do not abrogate or limit INDOT's statutory authority to safely and efficiently manage and operate the state highway system and associated highway rights-of-way.

- Provides that, before July 1, 2020, INDOT shall adopt rules to provide that, as used throughout the department's administrative code regarding utility facility relocation for purposes of construction contracts, "utility" has the meaning set forth in federal law concerning utility relocations, adjustments, and reimbursement.

**Current Status:** 4/15/2019 - Third reading passed; Roll Call 514: yeas 91, nays 0

**State Bill Page:** [SB 460](#)

## **SB 472 UTILITY MATTERS (KOCH E)**

- Establishes the 15 member 21st century energy policy development task force (task force). Requires the task force to: (1) examine and evaluate specified aspects of the state's policies concerning electric generation portfolios; (2) develop recommendations for the general assembly and the governor concerning any identified challenges with respect to Indiana's electric generation portfolios; and (3) issue a report setting forth the task force's recommendations not later than December 1, 2020.
- Requires the utility regulatory commission (IURC) to conduct, before July 1, 2020, a comprehensive study of the statewide impacts of: (1) transitions in the fuel sources and other resources used to generate electricity by electric utilities; and (2) new and emerging technologies for the generation of electricity; on electric generation capacity, system reliability, system resilience, and the cost of electric utility service. Requires the IURC to provide a final report on its study to the governor, the legislative council, and the 21st century energy policy development task force not later than July 1, 2020.
- Provides that an order affecting rates of service may be entered by the IURC without a formal public hearing in the case of any public or municipally owned utility that either: (1) serves less than 5,000 customers; or (2) has initiated a rate case on behalf of a single division of the utility and that division: (A) serves less than 5,000 customers; and (B) has an IURC-approved schedule of rates and charges that is separate and independent from that of any other division of the utility. (Current law permits the IURC to enter a service rate order without a public hearing only in the case of a utility that itself serves less than 5,000 customers.)
- Changes the term "distressed utility" to "offered utility" for purposes of provisions regarding acquisition of water or wastewater utilities.
- Makes the following changes for purposes of provisions under which a utility that acquires property from another utility at a cost differential may petition the IURC to include the cost differential in the acquiring utility's rate base: (1) Provides conditions for applicability of the rebuttable presumption that the cost differential is reasonable. (2) Amends the findings the IURC must make in order to approve the petition. (3) Provides that notice of the filing of the petition may be provided to customers of the acquiring utility company in a billing insert.
- Provides, for purposes of the requirement that a municipality that plans to sell or dispose of non-surplus municipally owned utility property must appoint appraisers in a writing that is a public record, that a written contract with the appraisers or the appraisers' firms satisfies this requirement. Provides that the municipality must hold a public hearing regarding the appraisal and proposed sale not later than 180 days (rather than 90 days, under current law) after the appraisal is complete. Amends the factors the IURC must consider in deciding whether the sale or disposition is in the public interest.
- Urges the legislative council to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems.

**Current Status:** 4/15/2019 - Third reading passed; Roll Call 516: yeas 93, nays 0

**State Bill Page:** [SB 472](#)

## STANDARDS & CODES

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### HB 1113 TELECOIL AND BEACON POSITIONING SYSTEMS (MILLER D)

- Requires the fire prevention and buildings safety commission (commission) to adopt rules requiring that a person performing new construction or any major alteration of an existing public address system in a Class 1 structure located in a first or second class city after June 30, 2020, must consider the installation of an audio frequency induction loop system (AFIL) and a beacon positioning system.
- Requires that the person performing new construction or any major alteration of an existing facility's public address system to solicit at least one bid for the installation of an AFIL and at least one bid for the installation of a beacon positioning system.
- Requires the commission to: (1) adopt standards of the American National Standards Institute (ANSI) and International Electrotechnical Commission (IEC) for installation, maintenance, and performance of audio frequency induction loop systems; and (2) develop standards for installation and maintenance of beacon positioning systems.
- Requires audiologists, individuals who hold a hearing aid dealer certificate of registration, and individuals who fit or dispense hearing aids while under the supervision and direction of an individual who holds a hearing aid dealer certificate of registration to provide information about telecoil and AFILs when fitting and dispensing hearing aids.

*Current Status:* 4/11/2019 - House concurred in Senate amendments; Roll Call 506: yeas 88, nays 0

*State Bill Page:* [HB 1113](#)

### HB 1128 CONSTRUCTION PERMITS (MILLER D) Provides that a local unit may not require, as a condition precedent to granting, issuing, or approving certain permits for any Class 1 or Class 2 structures, completion of work upon which the performance bond or other surety was obtained prior to recording the secondary plat. Provides that a local unit may not require, as a condition precedent to granting, issuing, or approving a certificate of occupancy for any Class 1 or Class 2 structure, the completion of work upon which the performance bond or other surety was obtained prior to recording the secondary plat, unless required under certain state building laws or another law to meet a local unit's basic needs for public health and safety. Requires a local governmental agency to issue certain permits to a person not later than 12 business days after the person has filed a completed application and meets all required conditions, in certain instances.

*Current Status:* 4/2/2019 - Third reading passed; Roll Call 371: yeas 47, nays 1

*State Bill Page:* [HB 1128](#)

### HB 1258 DEPARTMENT OF HOMELAND SECURITY (FRYE R)

- Provides that the fire prevention and building safety commission will adopt rules for regulated boiler and pressure vessels. (Current law provides that the boiler and pressure vessel rules board adopts rules for regulated boiler and pressure vessels.)
- Provides that the division may conduct a program of inspections of regulated boilers and pressure vessels. (Current law provides that the division shall conduct a program of periodic inspections of regulated boiler and pressure vessels.) Provides that the division shall: (1) issue a regulated boiler and pressure vessel operating permit to certain applicants; (2) perform operating permit inspections of a boiler or pressure vessel owned by the state; (3) conduct a program to audit boiler and pressure vessel inspectors; and (4) conduct a program to audit inspections completed by a boiler and pressure vessel inspector.
- Provides requirements for qualifying or renewing an operating permit.
- Removes requirements for inspections.

- Provides the fire prevention and building safety commission (commission) with emergency rulemaking authority to adopt rules concerning the division's inspection program. Removes provisions in the Indiana Code concerning inspection agencies. Provides that the commission may sanction a boiler and pressure vessel inspector in certain instances.
- Removes provisions in the Indiana Code concerning owner or user inspection agencies.

*Current Status:* 4/15/2019 – IN CONFERENCE COMMITTEE

*State Bill Page:* [HB 1258](#)

**HB 1266 SEDIMENT AND EROSION CONTROL IN CONSTRUCTION (MILLER D)**

- Provides that a review authority (an MS4 community or a soil and water conservation district) to which a construction plan is submitted must make a preliminary determination whether the construction plan is substantially complete: (1) before the end of the tenth working day after the day on which the construction plan is submitted in the case of a small construction activity site (one at which construction results in land disturbance of at least one but less than five acres) or very small construction activity site (one at which construction results in land disturbance of less than one acre); or (2) before the end of the fourteenth working day after the day on which the construction plan is submitted in the case of a large construction activity site (one at which construction activities result in land disturbance of at least five acres).
- Provides that if a review authority to which a construction plan is submitted does not notify the project site owner before the end of the tenth or fourteenth working day (whichever applies) of its preliminary determination whether the construction plan is substantially complete, the project site owner may submit a notice of intent letter and, 48 hours later, may begin the construction project.
- Provides that an MS4 community may require erosion and sediment control measures at a very small construction activity site but that the control measures may not be more stringent than the control measures required at a small construction activity site by administrative rules or the general permit that will be issued by the department of environmental management (IDEM).
- Establishes minimum qualifications for an individual who begins employment after July 1, 2019, reviewing and making conclusive determinations concerning construction plans submitted to an MS4 community.
- Provides that if an MS4 community has made a conclusive favorable determination concerning a construction plan and work on the construction project has begun, the MS4 community may not order work on the construction project to stop on the grounds that the erosion and sediment control measures are not adequate unless the project site owner is notified in writing of the inadequacies and the inadequacies are not resolved within 72 hours.
- Provides that the general permit that will be issued by the department of environmental management to establish erosion and sediment control requirements for construction sites, to the extent allowed under federal law, must recognize and be consistent with these provisions.

*Current Status:* 4/11/2019 - House concurred in Senate amendments; Roll Call 508: yeas 62, nays 27

*State Bill Page:* [HB 1266](#)

**SB 142 BUILDING PERMITS (BOHACEK M)** Prohibits a building commissioner, building code official, or inspector for a local unit of government (unit) from issuing a building permit when the building commissioner, building code official, or inspector has a direct or indirect financial interest in the issuance of the permit. Requires a unit to adopt an ordinance to establish a procedure to address instances where a building commissioner, building code official, or inspector has a direct or indirect financial interest in the issuance of a permit.

*Current Status:* 4/3/2019 - **SIGNED BY GOVERNOR**

*State Bill Page:* [SB 142](#)

**SB 230 UNLAWFUL INDEMNITY AGREEMENTS (MESSMER M)** Provides that the law concerning indemnity agreements in construction or design contracts applies to certain design-build contracts. Specifies that "sole negligence" for purposes of liability under a construction or design contract does not include: (1) vicarious liability; (2) imputed negligence; or (3) assumption of a nondelegable duty. Specifies that provisions in certain professional services contracts requiring indemnification or defense of a promisee for liability are void.

*Current Status:* 4/9/2019 - Signed by the Speaker

*State Bill Page:* [SB 230](#)

**SB 485 BUILDING STANDARDS (ALTING R)**

- Removes language that relates to the temporary rules and regulation of sanitary conditions and sanitary facilities of Class I structures.
- Adds certain elevator standards to the list of national codes, or their equivalent, that the fire prevention and building safety commission (commission) shall adopt to comply with the statewide code of fire and safety building laws. Removes the requirement that the commission shall adopt the most recent edition, including addenda, of ASME A17.3 (Safety Code for Existing Elevators and Escalators, an American National Standard).
- Allows the department of homeland security (department) to request certain types of documentation to determine that work conducted on a regulated lifting device was performed by a licensed individual.
- Requires the commission to adopt national codes within 24 months after the effective date of the national code.
- Provides that the commission may not adopt an amendment to a national code if the amendment will unreasonably impair safety.
- Allows the commission to set a fee that is less than the standard fee for certain permits if the acceptance inspection is performed by an inspector that is not employed by the department.
- Requires an individual who is renewing an operating certificate to submit all safety test results when making application for the renewal operating certificate.

*Current Status:* 4/11/2019 - Returned to the Senate with amendments

*State Bill Page:* [SB 485](#)

## MISCELLANEOUS

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**HB 1015 UNLAWFUL INDEMNITY AGREEMENTS (TORR J)** Provides that the law concerning indemnity agreements in construction or design contracts applies to certain design-build contracts. Specifies that a provision in a professional services contract that requires indemnification and defense of a promisee for certain liability is void. Specifies that "sole negligence" for purposes of liability under a construction or design contract does not include: (1) vicarious liability; (2) imputed negligence; or (3) assumption of a nondelegable duty.

*Current Status:* 4/15/2019 – IN CONFERENCE COMMITTEE

*State Bill Page:* [HB 1015](#)

**HB 1411 EMINENT DOMAIN FOR NONPUBLIC USES (WOLKINS D)** Amends the statute concerning the use of eminent domain to acquire real property for nonpublic uses to provide that the requirement that a condemnor compensate the owner of residential property acquired under the statute in the amount of 150% of the fair market value of the property applies: (1) only to residential property occupied by the owner as a residence, in the case of an eminent domain proceeding: (A) initiated before July 1, 2019; and (B) with respect to which the fair market value of the parcel has been determined before July 1, 2019; and (2) to all residential property, regardless of whether the property is occupied by the owner

as a residence, in the case of an eminent domain proceeding initiated: (A) after June 30, 2019; or (B) before July 1, 2019, and with respect to which the fair market value of the parcel has not been determined before July 1, 2019. Defines "residential property" for purposes of the statute.

*Current Status:* 3/28/2019 - Signed by the Speaker

*State Bill Page:* [HB 1411](#)

**SB 94**      **INTERIM STUDY COMMITTEE (BOOTS P)** Urges the legislative council to assign the topic of municipal annexation to the appropriate interim study committee during the 2019 interim.

*Current Status:* IN CONFERENCE COMMITTEE

*State Bill Page:* [SB 94](#)

**SB 99**      **WAGE ASSIGNMENTS FOR CLOTHING AND TOOLS (BOOTS P)** Provides that a wage assignment for the purchase, rental, or use of uniforms, shirts, pants and other job-related clothing may not be an amount that exceeds the direct cost paid by the employer to an external vendor for those items. Provides that a wage assignment may be made for the rental of uniform shirts, pants, and job-related clothing. Provides that a wage assignment may be made for the purchase of equipment or tools necessary to fulfill the duties of employment. Provides that a wage assignment for the purchase of equipment or tools may not be an amount that exceeds the direct cost paid by the employer to an external vendor for those items. Provides that an employee shall not be charged or subject to a wage assignment for personal protective equipment except for those instances provided under federal rules. Provides that the total amount of wages subject to assignment for the purchase of uniforms and equipment or rental of uniform shirts, pants and job-related clothing may not exceed certain amounts.

*Current Status:* 4/15/2019 – IN CONFERENCE COMMITTEE

*State Bill Page:* [SB 99](#)

**SB 604**      **VOIDING AND RELEASING CLAIMS IN LAND INTERESTS (DORIOT B)** Adds a provision to the statute concerning marketable title for real property to provide that after a person has filed a claim for an interest in land, the claim is void if: (1) the owner of the property subject to the claim (or any person having an interest in the property) provides written notice to the claimant to file an action to enforce the claim; and (2) the claimant fails to file, within 30 days after receiving the notice to enforce the claim, an action to enforce the claim in the county where the property is located. Provides that upon the claimant's failure to file an action to enforce the claim within the 30 day period, the person who provided the notice to the claimant may file with the recorder of the county where the property is located an affidavit stating that the person has served notice on the claimant to enforce the claim and that no action for enforcement of the claim is pending. Requires the county recorder to record the affidavit of service. Requires that an affidavit of service must also include a reference to the recording information of the recorded notice of claim. Requires that, when the recorder records the affidavit of service, the recorder must include a reference to the recorded notice of claim in the record book. Allows a recorder to certify certain records by cross reference in certain instances.

*Current Status:* 4/17/2019 – IN CONFERENCE COMMITTEE

*State Bill Page:* [SB 604](#)