

# Actionlines Web Feature

## 2009 Statehouse Report

### **IACT Reports Successes and Fewer Wounds Inflicted on Cities and Towns**

*Special Session could mean Return of SJR 1 and Kernan-Shepard Initiatives*

The 2009 legislative session ended on April 29 without the passage of a biennial budget, therefore, legislators will be coming back to the statehouse in mid-June for a special session in order to finalize a budget. A budget must be passed by June 30 before the beginning of the state's fiscal year, which begins on July 1. During a special session, the entire legislative process starts over again -- new bills can be introduced and concepts that died during the regular session can resurface. We think that during the special session, it is possible to see the return of language that was in Senate Joint Resolution 1, which provided for the property tax caps to be part of the Indiana Constitution. Also, the Kernan-Shepard provisions could again be up for debate. IACT will be busy tracking these matters and reporting back to you.

As for the regular session, IACT was successful in getting our number one initiative passed which requires counties to timely distribute income tax revenues to cities and towns. House Enrolled Act 1432 requires a county auditor to distribute CAGIT, COIT, and EDIT revenues to the underlying taxing units within 10 working days of receipt of the funds from the state. Most of the time, counties were properly distributing these funds, but in a few counties there were lengthy hold-ups; therefore, we sought legislation to put a reasonable time period in place for these revenues to be distributed.

Two of IACT's initiatives died in House Bill 1447. HB 1447 contained many fiscally related provisions that did not pass because the House ran out of time to consider the bill after it debated the budget. We have heard that some of the provisions from HB 1447 may resurface during special session. Therefore, we are hopeful to get our TIF replacement levy language passed, which allows the special assessment for TIF replacement to be outside of a unit's maximum levy limitations. In addition, we are hopeful to see the language originally in HB 1058 return. This language requires the Indiana Department of Revenue to collect data indicating whether a taxpayer lives inside or outside municipal boundaries. This data will be needed in the future if we are able to get a municipal local option income tax authority passed.

As IACT worked hard to push our initiatives during the session, as always, we worked equally as hard to defeat legislation that had a negative impact on cities and towns. While the language that originated in Senate Bill 232 tried to make a comeback, it was successfully defeated. This language would have provided for personal fines up to \$500 against public officials and their employees for violating the Open Door Law or Access to Public Records Act. In addition, it required political subdivisions to send email notifications regarding public meetings to anyone who requested to receive notification.

In lieu of emails, a political subdivision could post the information on its website. Our concern with this provision was that if notification did not reach a recipient, the recipient could claim that action taken at the meeting was invalid.

Cities and towns are constantly asked by state leaders to come up with solutions to economize and be more efficient. However, IACT's major legislative attempt to do just that was stifled. SB 486 and HB 1626 would have allowed municipalities to become members of an insurance risk pool for property, casualty and workers' compensation insurance. Indiana is only one of two states that does not permit municipalities to enter into this type of pooling arrangement. In fact, municipal leagues in 39 states offer these kinds of pooling programs. We intend to keep working on property and casualty pooling in future sessions.

On a final note, a statewide smoking ban for public places did not pass and the legislation which allowed a municipal option permitting cameras to be installed at intersections to photograph drivers who run red lights also failed.

This Statehouse Report contains an in-depth summary of the enrolled acts that we believe are important to municipalities. Unless otherwise noted in the summary, the legislation takes effect on July 1, 2009. Please note that three bills in the list were vetoed by the Governor (HEA 1368, HEA 1491 and SEA 209). These bills are now subject to a veto override by the General Assembly and if the vetoes are overridden, the bills will still become law. To read the actual legislation that passed, we encourage you to visit the State of Indiana's legislative webpage at <http://www.in.gov/legislative/>. As always, feel free to contact our legislative team at (317) 237-6200 if you have any questions.

# Table of Contents

**Administration.....4**

**Community and Economic Development.....14**

**Environmental.....15**

**Finance.....19**

**Pensions.....24**

**Public Safety.....26**

**Transportation.....34**

**Utilities.....35**

**Criminal Code Changes.....36**

| <b>Top 10 Legislative Issues with Municipal Impact</b>              |    |
|---|----|
| 1. HEA 1432 – County Auditor Income Tax Distributions to Units..... | 23 |
| 2. HEA 1071 – Homeowners Associations.....                          | 9  |
| 3. HEA 1514 – Local Government .....                                | 10 |
| 4. HEA 1468 – Commercial Dog Breeders.....                          | 9  |
| 5. HEA 1033 – Energy Savings Contracts.....                         | 19 |
| 6. HEA 1230 – Publication of Notices.....                           | 5  |
| 7. HEA 1278 – Water Matters.....                                    | 35 |
| 8. HEA 1491 – Courts and Court Officers (VETOED).....               | 10 |
| 9. HEA 1162 – Environmental Matters.....                            | 15 |
| 10. SEA 448 – Personal Property Tax Exemption for IT Equipment..... | 14 |

# Administration

## **Age Discrimination (HEA 1014, P.L. 166-2009)**

***Author: Vernon G. Smith***

***Sponsor: R. Michael Young, Dennis K. Kruse and Karen Tallian***

- Increases from 70 years of age to 75 years of age the maximum age limit for age discrimination claims.
- Repeals a provision that prohibits the Commissioner of Labor from publicizing age discrimination proceedings.

## **Youth Shelters (HEA 1063, P.L. 72-2009)**

***Author: Dennis T. Avery***

***Sponsor: Connie Lawson, Vaneta Becker and Karen Tallian***

- Provides that an emergency shelter, a shelter care facility, or a program that provides services to homeless or low income individuals may provide shelter and certain other related services or items to a child without the permission of the child's parent, guardian or custodian.
- Provides immunity from civil liability for a youth shelter and its director, employees, agents and volunteers for any act or omission related to admitting, caring for or releasing a runaway or homeless youth.

## **Homeowners Associations and Model Home Taxation (HEA 1071, P.L. 167-2009)**

***Author: David Cheatham***

***Sponsor: Phil Boots, Mike Delph and James A. Lewis***

- Effective Date: July 1, 2009; Upon Passage
- Places new state rules and regulations on the Board of Directors of Homeowners Associations formed after July 1, 2009, such as keeping a membership list, requiring adoption of a budget, providing notices of assessments that is needed to fund the budget, providing a mechanism for membership to call a meeting, prohibiting the Board from entering into contracts and borrowing money that raise assessments without additional notices and membership voting and requiring the governing documents to include grievance resolution procedures.
- Allows for the adoption of these provisions by an association established prior to July 1, 2009 if desired by a majority of the membership or by the number required in the governing documents.
- Relieves the Boards of Directors from limitations and notices on contracting and borrowing money if the Homeowners Association Board is acting to cure or resolve an act of enforcement of a state or local law.
- Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than six months.
- Provides that an association may enforce an association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located if the complaint is not filed: (1) earlier than one year; and (2) later than five years; after the date the statement and notice of intention to hold a lien were recorded.
- Provides that an association lien is void if: (1) the owner of the real estate subject to the lien or any person or corporation having an interest in the real estate, including a mortgagee or a lien holder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien; and (2) the owner or holder of the lien fails to file an action to foreclose the lien in the county where the real estate is located within one year after the date the owner or holder of the lien received notice of the lien.

- Applies the model home property tax assessed value deduction to 2008 assessments of model homes.

**Identity Deception (HEA 1121, P.L. 137-2009)**

***Author: Linda Lawson***

***Sponsor: Brent Steele and Lindel O. Hume***

- Creates the identity theft unit (unit) in the office of the attorney general, and specifies that the unit shall: (1) investigate consumer complaints related to identity theft; (2) assist victims of identity theft; (3) cooperate with law enforcement investigations related to identity theft; (4) assist state and federal prosecuting attorneys in the investigation and prosecution of identity theft; and (5) promptly notify the appropriate law enforcement agency and prosecuting attorney if there is reasonable suspicion to believe that a person has committed identity theft.
- Authorizes certain agencies and persons to cooperate with the unit in investigating identity theft, and authorizes a prosecuting attorney to deputize the attorney general or a deputy attorney general to assist in the prosecution of an identity theft case.
- Provides that the unit may establish an educational program to inform consumers concerning identity theft.
- Requires the owner of a data base (see, IC 24-4.9-2 for definitions) to notify the attorney general and the owner's regulator, if applicable, of a breach of the security of data.
- Requires a data base owner to take certain steps to safeguard data unless the data base owner has its own safeguards in accordance with certain federal laws subject to a civil penalty.
- Provides certain rights to the victims of identity theft and allows for a court's declaration of victim status.
- Increases the penalty for identity deception committed against the person's child to a Class C felony.
- Provides that unlawfully using identifying information that identifies a fictitious person or a person other than the person who is using the information but that does not belong in its entirety to any live or deceased person constitutes synthetic identity deception.

**Publication of Notices (HEA 1230, P.L. 141-2009)**

***Author: Phillip D. Hinkle***

***Sponsor: Richard D. Young, Jr. and James Russell Buck***

- Requires a notice published in a newspaper to also be posted on the newspaper's Internet web site, if the newspaper maintains an Internet web site. Prohibits a newspaper from charging a fee for posting of the Internet notice.
- Eliminates the requirement that a city publish the ordinance setting the salaries of elected city officers. Requires all political subdivisions with a budget of at least \$300,000 and the power to levy a tax to publish an annual report (if not required under any other statute to publish an annual report).
- Allows the officers of a political subdivision publishing notices to publish in only one newspaper in the political subdivision (instead of two newspapers), if only one newspaper is published in the political subdivision. After December 31, 2009, allows a newspaper or qualified publication to annually increase the basic publication charges that were in effect during the previous year by not more than 2.75%.
- Requires public notice advertisements to be in at least 7 point type.
- Eliminates the requirement that counties publish claims (except for court allowances) before payment. (Current law does not require municipalities to follow this procedure.)

- Allows the board of public works and safety of a third class city to consist of three or five members (as determined by the mayor). Requires a second class city and a third class city to publish notice that the total number of board members has been increased or decreased.

**Various Gaming Matters (HEA 1285, P.L. 142-2009)**

***Author: Trent Van Haafte***

***Sponsor: Vaneta Becker and Robert J. Deig***

- Effective dates: Upon Passage; July 1, 2009
- Requires licensed owners, operating agents, permit holders, and applicants to submit a proposed power of attorney to the gaming commission which must designate a trustee to operate the principal's riverboat or slot machine facility on behalf of the principal if certain events occur. Provides that the gaming commission must approve the trustee and the powers delegated to the trustee in the power of attorney.
- Consolidates licensing requirements for riverboat and slot machine facility suppliers. Increases the suppliers' initial license fees and annual renewal fees from \$5,000 to \$7,500. Authorizes the gaming commission to issue an occupational license that is valid for one, two, or three years after the date of issuance.
- Transfers duties concerning the gaming integrity fund from the gaming commission to the horse racing commission.
- Provides that a unit that receives County Slot machine Wagering Fee revenue shall establish a fund, separate from the unit's general fund, into which the revenue shall be deposited. Provides that County Slot Machine Wagering Fee revenue (as well as riverboat gaming revenue, under current law), may be donated to a public school endowment corporation or a charitable nonprofit community foundation under certain conditions. This would apply to Madison County, Shelby County and the cities and towns within these counties.

**Precinct Election Officers (HEA 1326, P.L. 53-2009)**

***Author: Milo Smith***

***Sponsor: Greg Walker, Sue Landske and James Russell Buck***

- Provides that any precinct election officer may ask a voter to show proof of identification.

**Unemployment Compensation and Labor Issues (HEA 1379, P.L. 175-2009)**

***Author: David L. Niezgodski***

***Sponsor: Gary Dillon and Dennis K. Kruse***

- Effective dates: Upon Passage; July 1, 2009
- Establishes the unemployment insurance oversight committee to: (1) oversee the department of workforce development's (department) administration of the unemployment insurance system; (2) recommend improvements in the collection of contributions and reimbursements and in the determination of eligibility for and the payment of unemployment benefits; (3) monitor the unemployment insurance benefit fund (fund); and (4) make recommendations to improve the solvency of the fund.
- Provides that reimbursable employers pay only the portion of extended benefits not reimbursed by the federal government.
- Requires that extended benefits be paid for at least 13 weeks after a determination that the state "on" indicator is in effect; changes the "off" indicator to the maximum allowable under federal law and provides an additional "on indicator" under which extended benefit periods may be triggered. Increases the total extended benefit amount payable to an individual for

extended benefit periods beginning in a "high unemployment period." Specifies that the additional "on" indicator expires on the later of December 5, 2009, or the week ending four weeks before the last week for which federal sharing is authorized by the federal American Recovery and Reinvestment Act of 2009 (Act).

- Provides that for any weeks of unemployment beginning after February 17, 2009, and before January 1, 2010, an individual's eligibility period for extended benefits is considered to include any week that begins: (1) after the date as of which the individual exhausts all rights to emergency unemployment compensation; and (2) during an extended benefit period that began on or before that date.
- Increases the taxable wage base from \$7,000 to \$9,500 beginning 2010.
- Expands the definition of an "employing unit" to include all forms of legal entities. Adds restrictions on an employer's ability to create a new experience account (account) for purposes of reducing the employer's contribution rate.
- Phases out the current tax rate schedule, and provides a new tax rate schedule effective in 2010 and provides that for calendar year 2010 new Schedule B applies in determining and assigning each employer's contribution rate.
- Permits an employer with a debit reserve ratio to elect once, after December 31, 2009, and before January 1, 2012, to make a voluntary contribution to the fund and receive a credit to the employer's account equal to 250% of the amount of the voluntary contribution. Limits the credit to the amount necessary for the employer to attain the next lower contribution rate. Permits an employer to pay the voluntary contribution in equal periodic payments over a period not to exceed five years.
- Provides that the term "effort to secure full-time work" includes submitting at least one application for work each week that the individual is claiming benefits and that submitting an online application satisfies this condition.
- Permits the department to waive the job search requirement when an individual is: (1) attending training; (2) a job-attached worker with a specific recall date that is not more than 60 days after separation; or (3) using a hiring service, referral service, or other job placement service. Also permits a waiver when requiring compliance with the requirement is inconsistent with the purposes of unemployment insurance law.
- Provides that as conditions precedent to the payment of benefits to an individual for benefit periods established on and after January 1, 2010: (1) the individual must have established, after the last day of the individual's last base period wage credits equal to at least 1.5 times the wages paid to the individual in the calendar quarter in which the individual's wages were highest; and (2) the individual must have established wage credits in the last two calendar quarters of the individual's base period in a total amount of not less than \$2,500 and an aggregate in the four calendar quarters of the individual's base period of not less than \$4,200.
- Provides that the definition of "discharge for just cause" includes the violation of a rule regarding attendance.
- Reduces the maximum benefit amount of an individual's current claim by 25% as a penalty for an individual's first separation from employment under disqualifying conditions or first failure to apply for or accept suitable work and provides for additional reductions in an individual's maximum benefit amount of 15% for the second separation or failure and 10% for the third and each subsequent separation or failure.
- Provides that work is not considered unsuitable during the fifth through the eighth consecutive week of claiming benefits if the work pays not less than 90% of the individual's prior weekly wage work or after eight consecutive weeks of claiming benefits if the work pays not less than 80% of the individual's prior weekly wage.

- Expands the definition of "gross misconduct" for which an individual's wage credits are canceled.
- Provides that the employer has the burden of proof that a discharged employee's conduct was gross misconduct, and allows evidence that the employer filled or maintained the position or job held by a discharged employee after the employee's discharge. Permits evidence that a discharged employee has not been prosecuted or convicted for the conduct. Provides that if evidence is presented that an action or requirement of the employer may have caused the conduct that is the basis for the employee's discharge, the conduct is not gross misconduct. Provides that lawful conduct not otherwise prohibited by an employer is not gross misconduct.
- Deletes the requirement that a felony or a Class A misdemeanor may constitute gross misconduct only if the felony or misdemeanor is admitted by the individual or has resulted in a conviction.
- Expands the types of information a notice of a claim for unemployment benefits (claim) must provide.
- Requires the department to establish an unemployment claims compliance center to investigate instances in which information provided by an individual who files a claim does not match information provided by the individual's base period employers.
- Charges half of the benefits paid to an employer's account if the employer fails to respond to a request by the department for information necessary to make a determination concerning a claim and the employer eventually prevails in the appeal.
- Provides for a credit to the employer's account equal to the amount of any overpayment recovered.
- Requires the department to regularly monitor the hearings and decisions of individuals who adjudicate claims to ensure that the hearings and decisions strictly comply with the law, and provides for department disciplinary action up to and including termination for an individual's failure to do so.
- Authorizes the department to charge a reasonable processing fee not to exceed \$2 for records concerning an individual's last known employer that must be disclosed by court order. Requires the unemployment insurance board to transfer from the special employment and training services fund (special fund) to the fund amounts in the special fund that exceed \$8.5 million.
- Establishes the Hoosier workers first training program to allocate to employers or consortiums money for incumbent worker training grants that enable workers who reside in Indiana to obtain recognizable credentials or certifications and transferable employment skills that improve employer competitiveness.
- Requires the commissioner of the department to: (1) examine the annual cost of implementing changes to eligibility and other requirements of the state's existing unemployment insurance system in order to qualify for the maximum amount available to a state under the Act; (2) compare the annual cost of implementing changes with the maximum amount available to the state under the Act as a result of making the changes; (3) initiate the changes examined, unless the commissioner determines that the negative fiscal impact to the fund outweighs the benefits of the amounts available to the state under the Act and the expansion of eligibility and other requirements of the state's existing unemployment insurance system; and (4) submit to the legislative council, the unemployment insurance oversight committee, the speaker of the house of representatives, and the president pro tempore of the senate a report that: (A) details the commissioner's actions, or the commissioner's decision not to initiate changes; (B) recommends any legislation necessary to

modify the state's unemployment insurance system in order for the state to qualify for amounts available under the Act; and (C) analyzes the fiscal impact to the fund of the commissioner's actions, or decision not to initiate changes, and recommended legislation.

- Repeals: (1) expired employer rate schedules; (2) expired provisions concerning the skills 2016 training program; (3) an expired definition of "dependent"; and (4) a provision concerning witness fees.
- *IACT Note: Many municipal employers are "Reimbursable Employers" and this law clarifies that reimbursable employers are responsible for benefits that are not being paid by the federal government.*
- *IACT Note: The law increases the base which is likely to increase municipalities' employer costs for benefits or insurance premiums paid. However some other changes may reduce the number that obtain benefits or reduce benefits paid. The increases in revenues to the fund and decreases in anticipated benefits to be paid are anticipated to increase the fund by \$30.4 M from Calendar Year 2010 to 2011.*

### **Commercial Dog Breeders and Animal Cruelty (HEA 1468, P.L. 111-2009)**

**Author: Linda Lawson**

**Sponsor: Joseph C. Zakas, Vi Simpson, Teresa S. Lubbers**

- Effective Dates: July 1, 2009; January 1, 2010
- Allows political subdivisions to pass a local ordinance regulating commercial dog breeders that is more stringent than state standards as long as the local ordinance is in place before December 31, 2009.
- Authorizes the board of animal health to establish a registry for commercial dog brokers and breeders in Indiana. Exempts animal shelters, humane societies, certain animal rescue operations, hobby breeders, people who breed hunting dogs for sport, and people who breed dogs for use by police or the military from the requirements imposed on commercial dog breeders.
- Defines commercial dog breeder as a person who maintains more than 20 unaltered female dogs at least 12 months of age.
- Defines commercial dog broker as a person who is licensed under federal law and sells at least 500 dogs in a calendar year.
- Requires commercial dog breeders and brokers to register with the state and pay registration fees.
- Requires commercial dog breeders to comply with standards of care determined by the United States Department of Agriculture and provides for state enforcement.
- Amends the definition of "neglect" in the animal cruelty law to include: (1) restraining an animal by a rope or tether in a manner that endangers the animal's life or health, or that physically harms the animal; or (2) failing to provide reasonable care for a dog's injury or illness if the injury or illness seriously endangers the life or health of the dog.
- *IACT Note: If a municipality wants to regulate commercial dog breeders, other than what the new state law allows, the ordinance needs to be passed by the legislative body, signed, attested to and approved by the proper officers and published, if there are penalty provisions, before December 31, 2009. See, IC 36-5-2 and IC 36-4-6.*

## **Court and Court Officers (HEA 1491, VETOED)**

***Author: Craig Fry***

***Sponsor: Edward Charbonneau***

- Effective Date: July 1, 2009 and July 1, 2011.
- Establishes the Sixth District of the court of appeals of Indiana as of July 1, 2011. Provides that the entire state constitutes the Sixth District.
- Requires the nonpartisan election of superior court judges in St. Joseph County. Continues the terms of the St. Joseph superior court judges in office on June 30, 2009, until the date the judges' terms will end under the law in effect on June 30, 2009. Provides that a candidate for judge of the St. Joseph superior court may not accept certain political contributions.
- Repeals provisions concerning judicial retention elections in St. Joseph County.
- Allows a city or town that has not established a city or town court or an ordinance violations bureau to enter into an interlocal agreement with a city, town, or other municipal corporation that has established: (1) a city or town court; or (2) an ordinance violations bureau; to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of a city or town court or an ordinance violations bureau established by the city or town.

## **Local Government (HEA 1514, P.L. 176-2009)**

***Author: Phil GiaQuinta***

***Sponsor: Richard D. Bray and Tim Lanane***

- Multiple effective dates.
- Requires a deputy examiner, field examiner, or private examiner to make a preliminary report to the state examiner if: (1) a substantial amount of public funds has been misappropriated or diverted or is unaccounted for; (2) there is a reasonable likelihood that the final examination report will include a finding that the entity that is the subject of the report failed to observe a uniform compliance guideline or failed to comply with a specific law; or (3) the malfeasance, misfeasance, or nonfeasance that resulted in the misappropriation of, diversion of, or inability to account for the public funds was committed by the officer or employee who is primarily responsible for ensuring compliance with laws regarding maintaining and accounting for the funds.
- Requires the state examiner to provide a copy of the report to the attorney general, and authorizes the attorney general to bring a civil action against the delinquent employee or the official bond to recover misappropriated funds.
- Authorizes the attorney general to attach the assets of the delinquent employee. Specifies that the state board of accounts may require the use of an electronic, automated, or computerized system of accounting or reporting.
- Provides that a political subdivision may award a contract for public work under the procurement law for the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property if the cost is estimated to be less than \$150,000.
- Changes the name of the Fort Wayne-Allen county convention and tourism authority to the Allen County-Fort Wayne capital improvement board of managers (Allen County-Fort Wayne CIB). Removes the limitation on county appointments to the Allen County-Fort Wayne CIB having to live in the unincorporated area of the county. Provides that any food and beverage tax revenue in Allen County that is received after December 31, 2009, and is not needed for debt payments on the coliseum is to be transferred to the Allen County-Fort Wayne CIB and provides that the excess revenue may not be used to provide funding for

improvements initiated before January 1, 2009, as part of the Harrison Square project or for operational expenses. Adds the facilities at the Indiana University-Purdue University at Fort Wayne campus to the Allen County professional sports development area. Removes the \$5 per person state revenue cap for the Allen County professional sports development areas. Provides that the maximum amount of covered local and state taxes that may be captured in Allen County is \$3,000,000. Provides that Allen County receives the first \$2,600,000 of captured tax revenue each year for deposit in the supplemental coliseum expansion fund and the Allen County-Fort Wayne capital improvement board receives the remainder. Changes the allocation of excess Allen County food and beverage tax revenue so that the Allen County-Fort Wayne capital improvement board receives all the excess revenue. Provides that, after June 30, 2009, the Allen County-Fort Wayne CIB must approve any food and beverage tax pledge for bonds, loans, or leases. Requires the executive director of the Allen County Memorial Coliseum to file an annual report of operations with the Allen County-Fort Wayne CIB. Requires the executive manager of the Allen County-Fort Wayne CIB to file an annual report of operations with the Allen County-Fort Wayne CIB. Provides that the part of the Vanderburgh County innkeeper's tax rate that is dedicated to pay the operating expenses of a convention center is reduced from 2% to 1% after December 31, 2014 (rather than after December 31, 2009, under current law).

- Provides for a corresponding delay in the increase in the part of the Vanderburgh County innkeeper's tax rate that is deposited in the tourism capital improvement fund. Specifies that if the Vanderburgh County council adopts a resolution providing that the Vanderburgh County food and beverage tax should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, any excess food and beverage tax revenue that is not needed to pay any bonds, leases, or other obligations for a convention center shall be transferred to the fiscal officer of Evansville for deposit in an Evansville arena fund. Provides that money in the Evansville arena fund shall be used for financing the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities. Specifies that if the Vanderburgh County council adopts a resolution providing that the Vanderburgh County food and beverage tax should be continued to finance the acquisition, construction, and equipping of an arena and other facilities that serve or support the arena activities, the food and beverage tax: (1) does not terminate after the last of the bonds issued to finance improvements to the Vanderburgh County auditorium or auditorium renovations, and the last of any bonds issued to refund those bonds, have been completely paid; and (2) continues until the last of the bonds issued to finance the acquisition, construction, and equipping of the Evansville arena and other facilities that serve or support the arena activities, and the last of any bonds issued to refund those bonds, have been completely paid.
- Repeals superseded provisions of the Allen County food and beverage tax.
- Repeals provisions specifying that the amounts received from the Vanderburgh County food and beverage tax shall be used to pay bonds issued to finance the construction of an airport terminal.
- Permits Monroe County to impose a county food and beverage tax of 1% of the gross retail income received by a food and beverage merchant.
- Establishes a local advisory commission to assist and coordinate efforts of the county and city fiscal bodies regarding the utilization of food and beverage tax revenue.
- Eliminates the expiration date in the Martinsville food and beverage tax by which the city of Martinsville may initiate projects funded by food and beverage tax revenues.
- Permits Martinsville to fund sewer improvements with the Martinsville food and beverage tax.

- Requires a municipality or local government unit to submit its financial reports to the state examiner within 60 days of the close of the fiscal year (previous law provided for 30 days) and requires the reports to be submitted electronically in a manner that is compatible with the technology employed by the political subdivision.
- *IACT Note: Review the municipalities purchasing ordinance and procedures since certain routine repairs to town/city structures, buildings or real property can be performed under the public purchasing law (IC 5-22) rather than the public works law (IC 36-1-12).*
- *IACT Note: This bill allows 60 days instead of 30 days for the CTAR to be filed. While it must be filed electronically, the electronic submission can be in a form that is compatible with the technology available to the local unit (i.e. Excel format, by fax, etc.)*

### **GPS Monitoring and Restraining Orders (HEA 1578, P.L. 116-2009)**

***Author: Nancy Dembowski***

***Sponsor: Edward E. Charbonneau, Sue Errington and Tim Lanane***

- Permits a court to require a person who is subject to an order of protection to wear a GPS tracking device if the court finds that the person violated an order for protection.
- Provides that if a court orders GPS tracking, the court shall require the use of a GPS tracking device with certain notification capabilities.
- Requires the division of state court administration to provide reports to the General Assembly concerning GPS tracking.
- Requires the division of state court administration to create, manage and maintain an Internet based registry of protective orders. This adds the rest of the counties in the state to the current system.

### **Service Animals (HEA 1603, P.L. 155-2009)**

***Author: Daniel Leonard***

***Sponsor: Dennis K. Kruse, Vaneta Becker and Marlin Stutzman***

- Provides that it is the policy of the state that individuals with a mental disability: (1) are encouraged to participate fully in the social and economic life of the state and engage in remunerative employment; and (2) shall be employed in positions with state and local government, public schools, and other entities supported by public funds (current law is limited to individuals who are blind or have another visual or physical disability).
- Provides that a person with a disability is entitled to be accompanied by a service animal (instead of a guide dog) in certain public accommodations (including various educational entities) without an extra charge.
- Provides that an employer, employment agency, labor organization, or joint labor-management committee must allow an employee with a disability to keep a service animal with the employee at all times.

### **Various Election Law Matters (SEA 209, VETOED)**

***Author: R. Michael Young***

***Sponsor: Kreg Battles***

- Requires that election material related to provisional ballots (excluding the provisional ballots themselves) be made available for copying and inspection under the access to public records law in the same manner as other election material, except in the case of a recount or contest, when material related to provisional ballots remains confidential for six months after the completion of the recount or contest.
- Provides that information in material related to provisional ballots that identifies an individual, except for the individual's name, address, and birth date, remains confidential.

- Requires a precinct election officer, in the case of a voter who casts a provisional ballot, or an absentee voter board, in the case of a voter who casts an absentee ballot that is treated as a provisional ballot, to provide both orally and in writing an explanation of the steps the voter must take in order to have the voter's ballot counted. Requires the election commission to prescribe the form of the explanation.
- Requires the circuit court clerk of a county that conducts an election in which a voter casts a provisional ballot or an absentee ballot that is treated as a provisional ballot to notify the voter not later than three days after election day concerning: (1) the reasons that the voter's ballot is being treated as a provisional ballot; (2) what actions, if any, that the voter must take in order to have the voter's ballot counted; (3) the deadline by which the voter must act to have the voter's ballot counted; and (4) certain contact information that the provisional voter may use to find out about the provisional voter's ballot. Requires that the notice be sent by first class United States mail or given by another method that the circuit court clerk determines will provide actual notice to the voter. Requires the notice to be in a form prescribed by the election commission.
- Requires the county election board to provide a list of the name and addresses of all voters who cast a provisional ballot at an election to a candidate whose name was on the ballot or the county chairman of a political party in the county not later than 72 hours after the request. Provides that a person required to give notice to a voter relating to the voter's provisional ballot who knowingly or intentionally fails to do so commits a Class C infraction.
- Requires the circuit court clerk and the secretary of state to compile and make public certain information about provisional voting. Provides that a voter who is a resident of a vote center county is entitled to cast an absentee ballot by mail. Removes the requirement that a county election board may establish satellite offices only by the unanimous vote of the board's members.
- Designates Johnson County as a vote center pilot county if it meets all the other requirements to be a vote center county. Requires a vote center pilot county to establish at least one satellite office for absentee voting.
- Repeals P.L.108-2008, SECTION 4, which authorizes the secretary of state to designate an additional vote center county.

#### **Coverage for Cancer Chemotherapy (SEA 437, P.L. 46-2009)**

***Author: Connie Lawson and Vaneta Becker***

***Sponsor: Peggy Welch***

- Prohibits application to coverage for oral cancer chemotherapy of dollar limits, co-payments, deductibles or coinsurance that are less favorable to a covered individual than the dollar limits, co-payments, deductibles or coinsurance that apply to coverage for injected or intravenous chemotherapy.
- *IACT Note: This could impact the type of health coverage provided by municipalities.*

#### **Department of Labor Administrative Matters (SEA 465, P.L. 48-2009)**

***Author: Karen Tallian and James Russell Buck***

***Sponsor: Clyde Kersey***

- Specifies that an employer is required to post a single page poster to notify employees about Indiana's minimum wage law.
- Authorizes the commissioner to determine the reasonable compensation of an attorney serving as an administrative law judge in occupational safety and health cases.

# Community and Economic Development

## **Job Recruitment Grant (HEA 1434, P.L. 35-2009)**

*Author: Nancy Ann Michael*

*Sponsor: Marlin Stutzman, Sue Errington and Dennis K. Kruse*

- Establishes the new business recruitment grant program for local economic development organizations serving counties where the unemployment rate exceeds the state unemployment rate by at least 2%.

## **Interim Plates for Motor Vehicle Dealers (HEA 1598, P.L. 179-2009)**

*Author: Scott Reske*

*Sponsor: Tim Lanane and Edward E. Charbonneau*

- Authorizes a county to adopt an ordinance providing a temporary exemption from the wheel tax for vehicles owned and used in the operation of twenty-first century logistics enterprises at certain locations.
- Authorizes a county to adopt an ordinance providing a temporary exemption from the commercial vehicle excise tax for vehicles owned and used in the operation of twenty-first century logistics enterprises at certain locations.
- Limits the exemptions to vehicles owned and used at a new logistics enterprise or in the expansion of the fleet of an existing logistics enterprise.
- Requires the Indiana economic development corporation to certify the owner's eligibility for an exemption.
- Modifies the adjusted gross income tax exclusion for certain income derived from the exploitation of certain patents by defining "development process," by allowing a clinical trial that is part of a development process, if any, to take place outside Indiana, and by providing that receipts attributable to the sale of a qualified patent also include the fair market value of receipts allocable to a qualified patent as the result of the sale of a trade or business.
- Reduces the maximum exclusion amount from \$5,000,000 to \$500,000.

## **Property Taxes (SEA 448, P.L. 163-2009)**

*Author: Edward E. Charbonneau and John E. Broden*

*Sponsor: Terri Jo Austin*

- Provides that enterprise information technology equipment purchased after June 30, 2009, by an eligible business is exempt from personal property taxation for a period agreed to by a designating body (a county council or municipal fiscal body).
- Provides that before January 1, 2013, a designating body may adopt a resolution providing the exemption to a particular business.
- Requires that the designating body and the eligible business enter into an agreement concerning the property tax exemption.
- Provides that the agreement must specify the duration of the property tax exemption and may specify that a transferee is entitled to the exemption on the same terms as the transferor.
- Specifies that the exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a resolution granting an exemption.
- Defines enterprise information technology equipment as: (1) hardware supporting computing, networking, or data storage function, including servers and routers; (2) networking systems having an industry designation as equipment within the "enterprise" or "data center" class of

networking systems that support the computing, networking, or data storage functions; and (3) generators and other equipment used to ensure an uninterrupted power supply to such hardware and networking systems.

- Provides that enterprise information technology equipment does not include computer hardware designed for single user, workstation, or departmental level use.
- Defines an eligible business as an entity that meets the following requirements: (1) the entity is engaged in a business that operates one or more facilities dedicated to computing, networking, or data storage activities; (2) the entity is located in a facility or data center in Indiana; (3) the entity invests in the aggregate at least \$10,000,000 in personal property and real property in Indiana after June 30, 2009; and (4) the average employee wage of the entity is at least 125% of the county average wage for each county in which the entity conducts business operations.
- *IACT Note: This is an economic tool that is a local option for cities, towns and counties. While it is a five year pilot project, if an agreement is made to grant the exemption, the exemption period can be longer than the duration of the pilot project. .*

## **Environmental**

### **Environmental Matters (HEA 1162, P.L. 78-2009)**

*Author: Dennis Tyler*

*Sponsor: Sue Errington, Beverly J. Gard and Tim Lanane*

- Provides that if a person has been issued a permit by IDEM to construct, install or operate a facility, equipment or a device, the person may not start the construction, installation, operation or modification until they have obtained any approval required by a county, city or town in which the facility, equipment or device is located.
- Allows the board of a regional water, sewer or solid waste district to adopt an ordinance allowing payments of certain claims in advance of board allowances.
- With respect to local ordinances that establish certain land use restrictions, requires that a municipal corporation give notice to IDEM not later than 60 days before amendment or repeal and to IDEM not later than 30 days after passage, amendment or repeal. However, it does allow IDEM to waive the 60 days notice requirement.
- Resolves several policy issues related to the IDEM antidegradation of water quality rulemaking that has been ongoing for over 10 years, including listing factors to be considered by IDEM in determining economic and social necessity of a proposed discharge and addressing how general permits will be treated in antidegradation reviews.
- Provides for an extension of the vested rights statute for development regulation. States that all local ordinance regulations are frozen from the time the IDEM permit is filed (i.e. regulations can not be changed by a new local ordinance). Previously, the planning and zoning regulations would not be frozen until local approval is given.
- *IACT Note: Local ordinances requiring notification to IDEM above are those that "...limits, regulates, or prohibits any of the following with respect to groundwater: (A) Withdrawal, (B) Human consumption (C) Any other use...."*

### **Clean Water Indiana Fund (HEA 1204, P.L. 24-2009)**

*Author: Robert J. Bischoff*

*Sponsor: James A. Lewis, Dennis K. Kruse and Robert J. Deig*

- Effective Date: Upon Passage
- Provides that money in the Clean Water Indiana (CWI) fund does not revert to any fund at the end of a fiscal year but remains available for us for the purposes of the fund.
- In FY 2007 and FY 2008, money was transferred to Disaster Relief grants at the end of the fiscal year.
- CWI funds are used to provide funding for local soil and water conservation measures. When money was transferred to other purposes, this resulted in less revenue being available for local conservation efforts.

**Water Resources Task Force (HEA 1224, P.L. 83-2009)**

***Author: Steven R. Stemler***

***Sponsor: Connie W. Sipes and Ryan D. Mishler***

- Creates a ten member Water Resources Task Force (task force) to study and make recommendations concerning water availability as an economic and environmental necessity.
- Provides that appointments to the task force are made by the Director of the Department of Natural Resources (DNR), provides that the director of DNR is a nonvoting member, and requires DNR to staff the task force.
- The DNR director may appoint members who represent municipalities.
- Provides that a member must attend a minimum of 50% of the meetings of the task force or be replaced.
- Requires the task force to make an annual report of its activities to the Water Resources Study Committee and the Legislative Council. Requires the Water Resources Study Committee to study the regulation of residential irrigation system installations and ground water preservation and protection.

**Energy Conservation Codes and Standards (HEA 1348, VETOED)**

***Author: Ryan Dvorak***

***Sponsor: Beverly J. Gard***

- Effective Date: Upon Passage
- Requires the Fire Prevention and Building Safety Commission to adopt the most recent edition of the: (1) International Energy Conservation Code as published by the International Code Council; or (2) American Society of Heating, Refrigerating, or Air-Conditioning Engineers Standard 90.1; for Class 1 structures before July 1, 2010.

**Energy Matters (HEA 1554, P.L. 151-2009)**

***Author: Kreg Battles***

***Sponsor: Jean Breaux, Robert J. Deig and Beverly J. Gard***

- Allows the Office of Energy and Defense Development (office) to award grants to certain businesses and local government units that make qualified investments after June 30, 2009, to install and place into service in Indiana fueling stations that dispense alternative fuel (defined as liquefied petroleum gas, a compressed natural gas product, or a combination of liquefied petroleum gas and a compressed natural gas product).
  - Provides that not more than one grant may be awarded for a single location.
  - Provides that the amount of a grant awarded for a location may not exceed the lesser of: (1) the amount of the grant recipient's qualified investment for the location; or (2) \$20,000.
  - Provides that the amount of a grant awarded for a location may be less than the amount of the grant recipient's qualified investment for the location.

- Provides that the total amount of grants awarded for all state fiscal years may not exceed \$1,000,000.
- Establishes the Alternative Fuel Fueling Station Grant Fund to award the grants, and provides that the office shall administer the fund.
- Allows the office to award grants to certain local government units that make qualified purchases after June 30, 2009, of: (1) one or more alternative fuel vehicles; or (2) one or more alternative fuel conversion kits.
  - Provides that not more than one grant may be awarded to any one unit.
  - Provides that the amount of a grant that may be awarded to a unit is the sum of: (1) \$2,000 multiplied by the number of alternative fuel vehicles purchased; plus (2) for each alternative fuel conversion kit purchased, an amount equal to the lesser of \$2,000 or the actual cost of the conversion kit.
  - Provides that the office may limit number of alternative fuel vehicles or alternative fuel conversion kits for which a unit may receive a grant.
  - Provides that the total amount of grants awarded for all units may not exceed \$1,000,000.
  - Establishes the Local Unit Alternative Fuel Vehicle Grant Fund to award the grants. Provides that the office shall administer the fund.
- Establishes the Office of Alternative Energy Incentives with the IOED to administer a program to provide incentives for rural electric membership corporations (corporations) and their cooperatively owned power suppliers to develop alternative energy projects.
  - Provides that not later than August 1 of each year, beginning in 2009, a corporation may apply to the office to have access to a certain percentage of the total funds in the corporation's account as of July 1 of the year, based on the percentage of the corporation's total sales from the provision of retail energy service during the preceding calendar year that was attributable to alternative energy projects.
- Amends the definition of "renewable energy resources" for purposes of utility generation and clean coal technology statutes to: (1) provide that energy from waste to energy facilities, to fall within the definition, is not limited to facilities producing steam not used for the production of electricity; and (2) include energy storage systems.

**Electronic Waste (HEA 1589, P.L. 178-2009)**

***Author: Mary Ann Sullivan***

***Sponsor: Beverly J. Gard, Edward E. Charbonneau and Sue Errington***

- Requires manufacturers of video display devices (VDDs) to recycle covered electronic devices (CEDs) from households, public schools, and small businesses (covered entities) in the amount of at least 60% of the total weight of VDDs sold by the manufacturer to households during the most recent twelve month period for which national sales data is available. Provides that VDDs generally include televisions and computer monitors that are marketed to covered entities, but establishes various exceptions.
- Provides that a program year for the electronic waste recycling program begins April 1 and ends the following March 31, and that the first program year begins April 1, 2010.
- Prohibits governmental entities from requiring covered entities to use public facilities to recycle CEDs to the exclusion of other available recycling programs.
- Requires retailers to provide certain recycling information to households.
- Prohibits mixing by covered entities of certain electronic devices with municipal waste that is intended for disposal after 2010 at a landfill or by burning or incineration.

- Provides that a covered entity that violates the electronic waste recycling law is not subject to criminal or civil action or penalty or any other sanction under state law.
- Requires the Environmental Quality Service Council to study in 2012 certain issues concerning the electronic waste recycling program.

**Little Calumet River Basin Development Commission (HEA 1716, P.L. 181-2009)**

*Author: Edmond Soliday*

*Sponsor: Edward E. Charbonneau, Frank Mrvan, Jr. and Earline S. Rogers*

- Effective Dates: June 1, 2009; July 1, 2009
- Changes the membership of and the qualifications for membership on the Little Calumet River Basin Development Commission (commission). Reduces the members from 11 to 5 and provides that members may not be employees or elected officials of a city, town or county governmental unit.
- Requires record keeping and audits of the commission's accounts.
- Requires the commission to prepare reports annually, or more frequently as required by the governor.
- Staggers the initial terms of the members.
- Requires the commission to provide or provide for the training and instruction of persons who are responsible for maintaining levees or other improvements related to flood control.

**Confined Animal Feeding (SEA 221, P.L. 127-2009)**

*Author: Robert J. Deig and Beverly J. Gard*

*Sponsor: Joe Pearson*

- Effective Dates: Upon Passage; July 1, 2009
- Amends the definitions of "applicant" and "responsible party" for purposes of confined feeding statutes. Amends the definition of "confined feeding operation" (CFO) to be consistent with the federal definition of "concentrated animal feeding operation" (CAFO) and eliminates separate CFO and CAFO references.
- Makes the confined feeding control statute part of the defined term "environmental management laws." Eliminates the exception from the requirement for department of environmental management (IDEM) construction approval for a CAFO that obtains an NPDES permit.
- Requires IDEM approval of confined feeding operation expansion that increases animal capacity or manure containment capacity. Establishes good character disclosure requirements for CFOs, applicable to both new construction and certain expansions. Provides that disclosure of acts and omissions in violation of foreign law applies only if the acts and omissions would have violated state or federal environmental law if the act or omission had occurred in the United States. Provides that disclosure requirements do not apply to a renewal of an IDEM approval and apply only if alleged acts and omissions subject to disclosure presented a substantial endangerment to human health or the environment.
- Requires an applicant for the construction or expansion of a CFO to inform land owners and occupants whose land is within 1/2 mile of certain parts of the CFO within 10 days after submitting the application. Allows the department of environmental management to review and act on disclosed good character information. Applies good character disclosure requirements to pending confined feeding projects.

# Finance

## **Renewable Energy and Energy Savings Contracts (HEA 1033, P.L. 71-2009)**

*Author: F. Dale Grubb*

*Sponsor: Marlin Stutzman and Robert Deig*

- Requires the state utility forecasting group, in formulating suggestions concerning renewable energy resources for inclusion in its annual report, to evaluate potential renewable energy generation opportunities from biomass and algae production systems.
- Requires the department of agriculture, in its administration of economic development efforts for agriculture, to facilitate the use of biomass and algae production systems to generate renewable energy.
- Provides that the maximum term of a guaranteed energy cost savings contract or utility efficiency program is 20 years. (Current law provides for maximum terms of 10 and 15 years, respectively.)
- Amends the statute governing local public works projects to provide that a political subdivision or its agencies may: (1) participate in a utility efficiency program; (2) enter into a guaranteed savings contract; and (3) enter into a design-build contract instead of awarding a public works contract.
- Provides that the term "conservation measure" includes the installation of insulation in a political subdivision's facility. (Under current law, installing insulation is a "conservation measure" only if the insulation is installed in a school facility.)
- *IACT Note: Identical language on energy savings was passed in HEA 1669.*

## **Property Tax Assessments and Notices (HEA 1094, P.L. 136-2009)**

*Author: F. Dale Grubb*

*Sponsor: John E. Broden and Brandt Hershman*

- Effective Dates: Upon Passage; July 1, 2009
- Requires that real property be valued for property tax assessment purposes as of the assessment date. Eliminates: (1) the requirement for the county auditor to mail an annual information statement to each person liable for property taxes; and (2) the alternative property tax assessment appeal deadline based on the mailing date of the county auditor's statement.
- Provides that a notice of assessment or reassessment and a property tax bill must include certain information concerning assessment appeals, including a notice that an appeal requires evidence relevant to the true tax value of the taxpayer's property as of the assessment date that is the basis for the estimated taxes payable on that property.
- Voids rules and guidelines that require assessing officials to value real property on a date that is different from the assessment date to which the value applies.
- Provides an exemption to the deadlines specified by law for the adoption of certain rules and certain other actions in order to bring the rules and actions into conformity with the change in valuation date.

## **Mortgage Deduction Application (HEA 1096, P.L. 75-2009)**

*Author: John Barnes*

*Sponsor: Greg Taylor, Thomas J. Wyss and James W. Merritt, Jr.*

- Multiple effective dates.

- Provides that a sales disclosure form properly filed by the purchaser of a residence constitutes an application for the property tax standard deduction.
- Provides two ways of applying for a mortgage deduction: (1) the person recording the mortgage, contract, or memorandum may file a statement with the county recorder for real property or with the county auditor for a mobile home not assessed as real property or a manufactured home not assessed as real property; or (2) the person claiming the mortgage deduction may file a statement with the county auditor.
- Provides that a real estate closing agent is not liable for any damages claimed by the property owner or contract purchaser because of any problem with the filing of a claim for the mortgage property tax deduction with a county recorder.

**Property Tax Administration (HEA 1344, P.L. 87-2009)**

***Author: Cherish Pryor***

***Sponsor: Travis Holdman, Jean Breaux and Gary Dillon***

- Requires sales disclosure forms and property tax bills to include information concerning the consequences of claiming more than one standard deduction and the procedures and deadlines for terminating a standard deduction.
- Establishes other filing requirements for a standard deduction that are similar to the filing requirements that applied to homestead credit applications.
- Specifies that tax statements must in 2010, 2011, and 2012 include a form for taxpayers to use to verify certain deductions and credits to which the taxpayers are entitled.
- Provides that the county auditor may, in the county auditor's discretion, terminate the deductions or credits for assessment dates after January 15, 2012, if an individual does not verify the deductions and credits before January 1, 2013.
- Requires the county auditor to provide notice of a proposed termination of a deduction or credit before the auditor terminates a taxpayer's deduction or credit because the taxpayer did not comply with the requirement to return the form to verify the taxpayer's deductions and credits.
- Provides that an applicant for a standard deduction must include either the last five digits of the applicant's Social Security number or, if the individual does not have a Social Security number, the last five digits of the individual's driver's license number or state identification card number, or of a control number that is on a document issued to the individual by the federal government and determined by the department of local government finance to be acceptable.
- Provides that if a county auditor terminates a deduction because the taxpayer claiming the deduction did not comply with the verification requirements before January 1, 2013, the county auditor shall reinstate the deduction if the taxpayer provides proof that the taxpayer is eligible for the deduction and is not claiming the deduction for any other property.
- Imposes a civil penalty of 10% of the tax due for a person who wrongly takes a standard deduction or credit. Provides that the county auditor shall prepare and send a notice of taxes due when a standard deduction is wrongly claimed.
- Permits a county auditor to use delinquent taxes, interest, and penalties collected in response to the termination of a standard deduction to pay for the costs of discovering erroneously granted standard deductions and for other expenses of the office of the county auditor, including the cost of verification notices on tax statements.
- Specifies that 1% of the total amount of the civil penalty collected from taxpayers that improperly claim the standard deduction and homestead credit shall be transferred by the county to the department of local government finance (DLGF) for use by the department in

establishing and maintaining the homestead property database and, to the extent there is money remaining, for any other purposes of the department.

- Specifies that the adjustment in tax due (and any interest and penalties on that amount) after the termination of a standard deduction or homestead credit shall be deposited in the nonreverting fund only in the first year in which that amount is collected.
- Provides that money in the nonreverting fund may be spent only after appropriation by the county fiscal body. Specifies that beginning with property taxes first due and payable for assessment dates after January 15, 2009, a county may apply a standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on a provisional bill.
- Specifies that if a provisional bill has been used for property tax billings for two consecutive years, the county shall apply a standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on the provisional bill.
- Requires the DLGF to work with county auditors to develop procedures to determine whether a property owner that is claiming a standard deduction or homestead credit is not ineligible because the property owner's principal place of residence is outside of Indiana.
- Requires the commission on state tax and financing policy to study in 2011 issues related to the form for taxpayers to use to verify the deductions or credits to which taxpayers are entitled and the termination of deductions or credits under that form.
- Makes other changes to reconcile differences in the law related to the enactment of HEA 1001-2008 and HEA 1293-2008.
- Permits a county legislative body to authorize the transmission by electronic mail of property tax statements and related information.
- Charges the county treasurer and county auditor with the administration of the program. Requires the designation of a single electronic mail address for joint owners and entities other than individuals. If the electronic mail is not received, requires the county treasurer to mail a hard copy of the statement.
- Allows for automatic deductions of payments for property taxes and special assessments from any account held by a financial institution, not just from a checking account.
- Requires a county to distribute revenue from monthly installment property tax collections to political subdivisions in the county at the normal semiannual distribution date.

### **Local Government (HEA 1358, P.L. 88-2009)**

*Author: Mary Ann Sullivan*

*Sponsor: Greg Taylor and Patricia L. Miller*

- Applies restrictions on purchasing real property at a tax sale to a person who owns a fee interest, a life estate interest, or the equitable interest of a contract purchaser in a vacant or abandoned structure subject to an enforcement order concerning a nuisance or an unsafe building.
- Requires a sheriff to cancel a sale if the person filing the praecipe for sale fails to pay delinquent property taxes, special assessments, penalties, and interest or any redemption where a tax sale certificate is outstanding.
- Specifies the date by which the county treasurer or county executive certifies to the county auditor a list of real property that have unpaid property taxes, special assessments, and costs.
- Prohibits a political subdivision from certifying unpaid special assessments, fees, penalties, or charges for collection to the treasurer or auditor: (1) after the date of entry of an order for sale

of tracts and real property against which judgment is entered; and (2) before the date on which tax sale certificates on the tracts and real property are offered for sale.

- Provides that a person not having a contractual interest in a vacant or abandoned property commits criminal trespass if: (1) a law enforcement officer, who has a reasonable suspicion that criminal activity has occurred or is occurring, prohibits the person from entering or asks the person to leave the property; and (2) the person knowingly or intentionally enters or refuses to leave the property.
- Provides that a person commits criminal trespass if the person knowingly or intentionally enters a vacant or abandoned property subject to an abatement order after being denied entry by a court order issued to the person or issued to the general public by posting on or around the premises.
- Requires a court to issue a continuous enforcement order as part of an order issued for violation of an ordinance regulating or prohibiting a condition or use of property or engaging in conduct without a license or permit.
- Defines a "continuous enforcement order" as an order issued for compliance or abatement which remains in full force and effect on a property without obtaining additional compliance and abatement authority or orders for the same or similar violations.
- Provides that if a second or subsequent civil judgment is entered against a property owner (relating to the same or a different property) a court may order the owner to pay treble damages based on the costs of the ordered action.
- Adds provisions regarding abatement of vacant and abandoned structures that a municipality or county may adopt by ordinance.
- Provides that an owner of a vacant structure or an abandoned structure may be liable for civil penalties if the owner fails to act to change the status of the property as vacant or abandoned.

#### **Tax Assessment of Land Affected by Flooding (HEA 1365, P.L. 90-2009)**

***Author: Trent Van Haafte***

***Sponsor: Robert J. Deig, Frank Mrvan, Jr. and Howard "Luke" Kenley***

- Effective Dates: January 1, 2007 (retroactive); January 1, 2008 (retroactive)
- Upon the filing of a petition in a calendar year by the owner of real property that: (1) is permanently flooded or rendered inaccessible by flooding; and (2) is not being used for agricultural purposes; requires adjustment of property taxes payable in the calendar year and reassessment of the property for future years in which the flooding continues.
- Applies the reassessment provision to flooding that occurs after March 1, 2008. Authorizes a refund if property taxes are paid based on the assessment that applied before the reassessment for flooding. Requires the county auditor and the county treasurer to publish notice of the availability of a reassessment for flooding.
- Allows the county auditor to reduce the assessed value used to set property tax rates based on expected reassessments for flooding.

#### **Coverage Related to Clinical Trials (HEA 1382, P.L. 109-2009)**

***Author: Peggy Welch***

***Sponsor: Connie W. Sipes and Beverly J. Gard***

- Requires coverage for certain services related to cancer clinical trials under a state employee health plan, the state Medicaid program, a policy of accident and sickness insurance, and a health maintenance organization contract.

**Ethanol Incentives (HEA 1398, P.L. 148-2009)**

*Author: F. Dale Grubb*

*Sponsor: Marlin Stutzman, Robert J. Deig and Beverly J. Gard*

- Multiple effective dates.
- Requires state educational institutions to purchase mid-level blends of gasoline and ethanol, E85, and blended biodiesel fuel to the extent possible.
- Provides that the E85 sales tax deduction applies only to reporting periods beginning on January 1 and ending before April 1.
- Specifies procedures for administering the deduction. Transfers administration of the deduction from the department of revenue to the state budget agency.
- Provides that the amount of money expended on administering Indiana corn market development statutes in a state fiscal year may not exceed 10% of the total amount of assessments, grants, and gifts received by the corn marketing council in that year. Establishes the retail merchant E85 deduction reimbursement fund.
- Requires the Indiana corn marketing council's annual transfers to the retail merchant E85 deduction reimbursement fund to be in amounts calculated to restore a balance of \$500,000. Adjusts corn check off refund and audit requirements.
- Adds school corporations and state educational institutions to the list of governmental entities that are eligible to apply to the department of agriculture for a grant under the E85 fueling station grant program.

**County Auditor Income Tax Distributions to Units (HEA 1432, P.L. 26-2009)**

*Author: Nancy Dembowski*

*Sponsor: Connie Lawson*

- Requires the county auditor to distribute local income tax revenue to other taxing units not later than ten working days after the county treasurer receives the distribution from the state.

**Geothermal Conversion Loans and Energy Efficiency (HEA 1669, P.L. 99-2009)**

*Author: Nancy Michael*

*Sponsor: Beverly Gard*

- Provides that the maximum term of a guaranteed energy cost savings contract or utility efficiency program is 20 years. (Current law provides for maximum terms of 10 and 15 years.) Amends the statute governing local public works projects to state that a political subdivision or its agencies may: (1) participate in a utility efficiency program or may enter into a guaranteed savings contract as provided by law; and (2) enter into a design-build contract as permitted by law instead of awarding a public works contract.
- Provides that a "conservation measure" includes installation of insulation in a political subdivision's facility.
- *IACT Note: Identical language on energy savings was passed in HEA 1033.*

# Pensions

## **1977 Pension Fund Disability Benefit (HEA 1012, P.L. 34-2009)**

***Author: Dennis T. Avery***

***Sponsor: Dennis K. Kruse, Vaneta Becker, Robert J. Deig***

- Provides that a member of the 1977 police officers' and firefighters' pension and disability fund who receives a disability benefit based on a determination that the fund member has a Class 1 impairment or, under certain circumstances, a Class 2 impairment (disabled member) is entitled to receive the disability benefit for the remainder of the disabled member's life. (Currently, a disabled member receives a disability benefit until age 52; at 52, the disabled member's benefit is recomputed as a retirement benefit.)
- Provides that, upon becoming 52, the disabled member is entitled to receive a monthly supplemental benefit equal to the greater of: (1) the monthly retirement benefit that the disabled member would have received had the disabled member remained in service until retirement upon becoming 52; or (2) the monthly retirement benefit earned by a fund member with 20 years of service; reduced by the amount of any disability benefit that the disabled member is entitled to receive for life.
- Provides that a fund member's retirement benefit is based on: (1) the member's years of active service; plus (2) if applicable, the period, not to exceed 20 years, during which the member received disability benefits.

## **Public Pensions (HEA 1498, P.L. 113-2009)**

***Author: William "Bill" J. Ruppel***

***Sponsor: Dennis K. Kruse, Karen Tallian and Randy Head***

- Multiple effective dates.
- Reduces from 15 to ten the number of years of creditable service that an active member of the public employees' retirement fund must earn for a surviving spouse or surviving dependent to receive a survivor benefit.
- Makes the change retroactive to January 1, 2007. Requires the fund to make a reasonable effort to notify certain surviving spouses or surviving dependents of changes made by this act.
- Provides a "thirteenth check" amount for TRF members, survivors, and beneficiaries.

## **Public Pension Funds (HEA 1546, P.L. 115-2009)**

***Author: David L. Niezgodski***

***Sponsor: Dennis K. Kruse, Howard "Luke" Kenley and Robert J. Deig***

- Effective dates: July 1, 2009 and January 1, 2010.
- Allows a vested member of teachers' retirement fund (TRF) who terminates covered employment to elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement and receive a pension at retirement. Requires the public employees' retirement fund (PERF) and TRF to adopt a policy to require direct deposit or another approved method as the preferred way for a member or beneficiary to receive benefits.
- Allows the PERF or TRF board (or a board designee) to waive the direct deposit requirement in certain circumstances. Requires that payment of an estimated retirement benefit be at least 85% of the actual benefit. (Currently, the payment must be 85% of the actual benefit.)
- Allows the annual payment of a PERF or TRF monthly retirement benefit that does not exceed \$5.

- Provides that a PERF or TRF member's application for retirement benefits is void, if, on or before the date the member files the application, the member has an agreement with a covered employer to become reemployed in a covered position.
- Eliminates the treasurer of state as the treasurer of PERF and reassigns the treasurer's duties to the PERF board and executive director.
- Provides that liability for a PERF member's unfunded service credit is charged against the employer's account.
- Specifies the date a TRF member returns to active teaching service or teacher education for purpose of earning military service credit.
- Repeals provisions concerning the treasurer of state's role as PERF treasurer.
- Provides for a thirteenth check for members, survivors, and beneficiaries of PERF.

### **Divestment of Public Pension Investments (HEA 1547, P.L. 67-2009)**

*Author: David L. Niezgodski*

*Sponsor: Ron Alting, Dennis K. Kruse and Robert J. Deig*

- Requires the public employees' retirement fund (PERF) and the state teachers' retirement fund (TRF), in the capacity of shareholders, to contact companies with certain business activities in a state that sponsors terror and request that the companies cease those business activities or convert the business activities to inactive business operations.
- Requires PERF and TRF to sell, redeem, divest, or withdraw investments in a company that is unresponsive to the requests.
- Prohibits PERF and TRF from acquiring securities of certain companies that have active business operations in a state that sponsors terror.
- Provides for certain exceptions for social development companies operating in a state that sponsors terror.
- Requires PERF and TRF to report to the general assembly any investments with a company with business operations in a state that sponsors terror.

### **1977 Pension Fund Military Service Credit (SEA 25, P.L. 19-2009)**

*Author: R. Michael Young and Lindel O. Hume*

*Sponsor: Clyde Kersey*

- Authorizes under certain conditions a member of the 1977 police officers' and firefighters' pension and disability fund to purchase up to two years of service credit for active duty military service.

### **1977 Fund Disability Benefit (SEA 188, P.L. 32-2009)**

*Author: Robert J. Deig*

*Sponsor: Dennis T. Avery*

- Provides that a member of the 1977 police officers' and firefighters' pension and disability fund who receives a disability benefit based on a determination that the fund member has a Class 1 impairment or, under certain circumstances, a Class 2 impairment (disabled member) is entitled to receive the disability benefit for the remainder of the disabled member's life. (Currently, a disabled member receives a disability benefit until age 52; at 52, the disabled member's benefit is recomputed as a retirement benefit.)
- Provides that, upon becoming 52, the disabled member is entitled to receive a monthly supplemental benefit equal to the greater of: (1) the monthly retirement benefit that the disabled member would have received had the disabled member remained in service until retirement upon becoming 52; or (2) the monthly retirement benefit earned by a fund member

with 20 years of service; reduced by the amount of any disability benefit that the disabled member is entitled to receive for life.

- Provides that a fund member's retirement benefit is based on: (1) the member's years of active service; plus (2) if applicable, the period, not to exceed 20 years, during which the member received disability benefits.

#### **Line of Duty Disability from Parkinson's Disease (SEA 376, P.L. 59-2009)**

*Author: James M. Merritt, Jr. and Karen Tallian*

*Sponsor: Mary Ann Sullivan*

- Creates a presumption that a police officer, firefighter, or emergency medical services provider who is diagnosed with Parkinson's disease after being exposed to certain toxins or trauma has incurred a line-of-duty disability.

#### **PERF/TRF Annuity Savings Accounts (SEA 536, P.L. 165-2009)**

*Author: Dennis K. Kruse*

*Sponsor: David L. Niezgodski*

- Allows the board of trustees of the public employees' retirement fund (PERF) to establish by rule the valuation date for a member's annuity savings account (ASA) and the frequency, allocation, and timing of changes in a member's investment selections for the legislators' retirement system.
- Allows the PERF board of trustees and the board of trustees of the state teachers' retirement fund (TRF) to establish a single composite interest or earnings rate in order to compute the interest or earnings credits on a member's omitted contributions in the guaranteed program or an alternate investment program.
- Allows the PERF and TRF boards to establish by rule due dates for employer contributions and reports. Requires employers to submit contributions and reports to PERF and TRF electronically after December 31, 2009, unless the employer obtains a waiver of the requirement for a period not to exceed two years.
- Increases from \$200 to \$1,000 the maximum amount in a member's ASA for purposes of suspending the member's fund membership and paying the ASA in a lump sum.

## **Public Safety**

#### **Heimlich Maneuver and CPR Continuing Education (HEA 1089, P.L. 20-2009)**

*Author: Cleo Duncan*

*Sponsor: Gary Dillon, Connie W. Sipes and Jean Leising*

- Requires the continuing education program of a city, town and county law enforcement agency to include training in cardiopulmonary resuscitation (CPR) and the Heimlich maneuver.

#### **Report of Missing Persons to National Database (HEA 1116, P.L. 22-2009)**

*Author: David Cheatham*

*Sponsor: Connie W. Sipes, R. Michael Young and James A. Lewis*

- Provides that a law enforcement agency that receives a report of a missing person may notify and request assistance from the state police department.

- Requires a law enforcement agency that receives a report of a missing person to enter information that relates to the missing person into the National Crime Information Center's (NCIC) data base not later than two hours after the report of the missing person is received. (Currently, local law enforcement agencies are only required to enter information into the NCIC database if the missing person is considered a high-risk missing person. This legislation expands the requirement to include all missing persons.)
- Permits a law enforcement agency that receives a report of a missing person to notify law enforcement agencies in another state if the state police department believes that the notification will assist in locating the missing person.

**Traffic Matters (HEA 1123, P.L. 138-2009)**

***Author: Robert Cherry***

***Sponsor: Beverly J. Gard, Robert J. Deig and Jim Arnold***

- Multiple effective dates.
- Requires that, after June 30, 2011, there must be: (1) a sign at or as near as practical to the point where a school zone begins, indicating the reduced speed limit for the school zone; and (2) a sign at the end of the school zone indicating the end of the school zone.
- Provides that a city, town or county may establish speed limits on a street or highway upon which a school is located if the street or highway is under the jurisdiction of such a unit. However, the speed limit established is valid only if: (1) the limit is not less than 20 miles per hour within an urban district and 30 miles per hour outside an urban district; (2) the limit is imposed only in the immediate vicinity of the school; (3) children are present; and (4) the speed zone is properly signed as indicated above.
- Provides that a privately owned emergency vehicle may display green light emitting diodes (LEDs) instead of a standard bulb with a green lens.

**Drivers Licenses (HEA 1130, P.L. 76-2009)**

***Author: John Barnes***

***Sponsor: James W. Merritt, Jr., Thomas J. Wyss and Jean Breaux***

- Multiple effective dates.
- Adds provisions concerning licenses, permits, and identification cards for aliens lawfully admitted for temporary residence in the United States.
- Provides that if an individual is temporarily residing outside Indiana because of service in the armed forces of the United States, the individual's driver's license (which includes any type of license authorizing the operation of a motor vehicle on public streets and highways), despite expiring, remains valid for 90 days following the individual's discharge from service in the armed forces. (Current law similarly provides for a 90 day period of post-discharge validity, but it applies only to an individual's operator's license.)
- Allows the bureau of motor vehicles to adopt rules concerning the renewal of licenses by mail or electronic service.

**Department of Correction and Police Powers (HEA 1132, P.L. 77-2009)**

***Author: Linda Lawson***

***Sponsor: Jim Arnold and Thomas J. Wyss***

- Authorizes the Commissioner of the Department of Correction (DOC) to appoint certain individuals as correctional police officers.

- Requires a correctional police officer to complete a pre-basic training course approved by the Law Enforcement Training Board and any other training course established by the DOC in conjunction with the law enforcement training board.
- Grants correctional police officers police powers, but only: (1) in connection with offenses committed on the property of the department of correction; (2) in connection with an offense involving an offender who is committed to the department; (3) in connection with an offense committed in the presence of an officer; or (4) while assisting another law enforcement officer who has requested the assistance of the correctional police officer.
- Establishes the Correctional Peace Officer's Fund to provide monetary assistance, including tuition assistance, to a correctional employee or to a member of the family of a correctional employee. Specifies that the fund consists of: (1) grants; (2) donations; (3) employee contributions; and (4) appropriations made to the fund; and that monetary assistance may be paid from the fund to a correctional employee or to a member of the family of a correctional employee if the employee or employee's family member attends a postsecondary educational institution, the employee suffers a loss as the result of a natural disaster, or the employee is killed or injured in the line of duty.
- Prohibits an owner or agent of a store from asking a person to make a statement that acknowledges that the person shoplifted in the store or waives any of the person's legal rights if: (1) the person is less than 18 years of age; and (2) the person has not been afforded meaningful consultation with his or her parent, guardian, custodian or guardian ad litem.
- The introduced version of this bill was prepared for the sentencing policy study committee.

**Public Safety Survivors Tuition and Fee Exemption (HEA 1165, P.L. 51-2009)**

***Author: Dennis Tyler***

***Sponsor: Jim Arnold, Sue Errington and R. Michael Young***

- Exempts the children of a public safety officer who is killed in the line of duty from the payment of tuition and regularly assessed fees for up to eight semesters at a state educational institution or technical school.
- Provides that the exemption applies to a child who is younger than 24 years of age on the date of the public safety officer's death, and limits the amount of the exemption to the cost of an undergraduate credit hour at the state educational institution or technical school where the child enrolls. (Currently, the children must be younger than 23 years of age to use the benefit.)

**Injured Volunteer Firefighters (HEA 1205, P.L. 63-2009)**

***Author: Robert J. Bischoff***

***Sponsor: Sue Landske, R. Michael Young and Richard D. Young, Jr.***

- Provides that the state, a political subdivision, or a private employer may not discipline an employee who is a member of a volunteer fire department and who is injured or absent from work because of an injury that occurs while the employee is engaged in emergency firefighting or emergency response activities.
- Provides that the period in which the employee may not be disciplined for an absence because of an injury may not exceed six months from the date of the injury.
- Provides that the employer may require the injured employee to provide evidence from a physician or other medical authority showing: (1) treatment for the injury at the time of the absence; and (2) a connection between the injury and the employee's emergency firefighting or emergency response activities.

- Requires the employer, to the extent required by federal or state law, to retain information about the injury in a separate medical file and to treat the information as a confidential medical record.
- Allows an injured employee to use sick leave when the employee is absent from work because of an injury that occurs while the employee is engaged in emergency firefighting or emergency response activities.
- Requires an employer to administer the absence in a manner consistent with the federal Family and Medical Leave Act.
- The impact on municipalities would be in their role as an employer, however it would also benefit those municipalities who utilize volunteer firefighters.

**Parking with Former Prisoner of War or Disabled Veteran Plates (HEA 1258, P.L. 6-2009)**

*Author: Gail C. Riecken*

*Sponsor: Sue Errington*

- Provides that a person issued a former prisoner of war license plate may not be charged a fee for parking the vehicle displaying the license plate in a metered space;
- Provides that a person issued a former prisoner of war license plate may not be charged a penalty for parking the vehicle displaying the license plate in a metered space for longer than the time permitted.
- Provides that a metered space is one with a parking meter and a public parking space with an official traffic control device that imposes a maximum parking time.
- Exempts shopping centers and business property under a contract for traffic enforcement pursuant to IC 9-21-18.
- *IACT Note: Requires local parking enforcers to know what a former prisoner of war license plate looks like to apply the special rules.*

**Various Motor Vehicle Matters (HEA 1323, P.L. 145-2009)**

*Author: Cleo Duncan*

*Sponsor: Jim Arnold, James Russell Buck and James W. Merritt, Jr.*

- Allows a person who drives an authorized emergency vehicle to execute a lawful intervention technique involving a fleeing motor vehicle if the person has completed a training course that instructs participants in the proper execution of lawful intervention techniques.
- Requires the driver of a school bus to stop the school bus before crossing certain railroad tracks. (Current law requires the driver to stop only when carrying a passenger.)
- Authorizes an individual less than 18 years of age to operate a motor vehicle in which there are passengers if the licensed operator is accompanied by a parent, guardian, or stepparent of the operator.

**Body Armor for Police Officers (HEA 1331, P.L. 8-2009)**

*Author: Linda Lawson*

*Sponsor: Jim Arnold and Thomas J. Wyss*

- Provides that a city, county, or town (unit) shall provide an active member of the police department of the unit with body armor for the torso (armor).
- Requires a unit to replace armor according to the replacement period recommended by the manufacturer of the armor.
- Provides that a unit cumulative capital improvement fund may be used to purchase armor for active members of a police department.

### **Child Restraint Systems; Special Purpose Buses (HEA 1339, P.L. 146-2009)**

***Author: Peggy Welch***

***Sponsor: Thomas J. Wyss and Jim Arnold***

- Repeals and revises the child restraint system law to eliminate certain exceptions for drivers from outside Indiana.
- Revises the definition of antique motor vehicle for purposes of the child restraint system law to include only motor vehicles that were manufactured without a safety belt as a part of the original manufacturer's equipment.
- Revises the definition of school bus for purposes of the child restraint system law.
- Specifies that a person may not be found to have violated the child restraint system law if the person presents a certificate issued by a physician, physician's assistant, or advanced practice nurse stating that it would be impractical to require that a child be fastened and restrained by a child restraint system because of a physical condition, including physical deformity, or a medical condition.
- Requires the Department of Education by September 1, 2009, to develop and implement a plan to promote safe driving practices for drivers of special purpose buses. Requires the operator of a special purpose bus with a capacity of less than 16 passengers to: (1) hold a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license; and (2) meet certain requirements for a school bus driver.
- Provides for a Class C infraction for knowingly, intentionally or recklessly violating certain provisions regarding the safe-driving plan for special purpose bus drivers. Also repeals two Class D infractions.

### **Various Election Law Matters (HEA 1346, P.L. 120-2009)**

***Author: Joe Pearson***

***Sponsor: Travis Holdman, Lindel O. Hume and Thomas J. Wyss***

- Provides that a public safety officer may vote an absentee ballot by mail.
- Provides that a public safety officer who has signed the poll list and is called from the polls before voting to respond to an emergency in the voter's capacity as a public safety officer is entitled to return to the polls and vote upon execution of an affidavit.
- Permits, after June 30, 2010, an individual who possesses a current and valid Indiana driver's license or identification card to submit a voter registration application or update information in the individual's existing voter registration record online by use of a secure Internet web site. Establishes procedures for the Bureau of Motor Vehicles and a county voter registration office to process an application or information submitted to the web site. The bill provides that an eligible applicant who submits a complete application online not later than midnight on the twenty-ninth day before an election shall be registered to vote in the election.
- Allows an overseas voter to transmit an absentee ballot application by electronic mail. Requires the office of the circuit court clerk (or the office of the board of elections and registration) to provide an automatic electronic mail receipt acknowledging receipt of the voter's application.
- Provides that a county may continue to use an optical scan ballot card voting system or an electronic voting system whose approval or certification expired on or before October 1, 2009, if the voting system meets certain requirements. Provides that the Indiana Election Commission may approve a voting system for use in Indiana if the voting system meets the Voluntary Voting System Guidelines adopted by the United States Election Assistance Commission on December 13, 2005.

**Benefits for Volunteer Firefighters and EMS Personnel (HEA 1362, P.L. 174-2009)**

***Author: Robert J. Bischoff***

***Sponsor: Sue Landske, R. Michael Young and Richard D. Young, Jr.***

- Increases the weekly indemnity for volunteer firefighters or emergency medical services personnel who become totally disabled as a result of the member's volunteer firefighting or emergency response duties to at least \$262, after June 30, 2009, and at least the Indiana minimum wage computed on the basis of a forty (40) hour week, after July 23, 2009, for up to a maximum of 260 weeks.
- Provides for certain benefits, including a line of duty death benefit and the medical treatment and burial expense provisions of the worker's compensation law, for emergency medical services personnel who are certified by the emergency medical services commission and are members of a volunteer fire department.
- Allows units to procure certain insurance benefits for emergency medical services personnel who are members of a volunteer fire department. Provides for certain limited civil liability for emergency medical services personnel.

**Autism Training (HEA 1455, P.L. 93-2009)**

***Author: Dennis Tyler***

***Sponsor: Sue Errington, Tim Lanane and Patricia L. Miller***

- Effective dates: July 1, 2009; January 10, 2010
- Requires certain firefighter and law enforcement personnel to be trained in interacting with individuals with autism.
- Requires law enforcement personnel to receive training in interacting with missing endangered adults.
- This training will be included in the current required training and recertification curriculum offered by both the Indiana Department of Homeland Security (DHS) and the Indiana Law Enforcement Academy (LEA) to law enforcement officers and firefighters.

**Learner's Permits and Graduated Licenses (SEA 16, P.L. -2009)**

***Author: Travis Holdman, Karen Tallian and Thomas J. Wyss***

***Sponsor: Peggy Welch***

- Effective Dates: Upon Passage; July 1, 2009
- Raises the minimum age for the issuance of a learner's permit:
  - A learner's permit shall be issued to an individual who meets the following conditions: they are (1) at least 15 years and 180 days of age (*previously 15 years of age*), (2) less than 18 years of age, and (3) enrolled in an approved driver education course.
- Raises the minimum age for the issuance of a probationary operator's license.
  - They are eligible for their probationary operator's license if they meet the following conditions: (1) is at least 16 years and 180 days of age (*previously 16 years and 30 days of age*), (2) has held a valid learner's permit for at least 180 days (*previously 60 days*), (3) has satisfactorily completed a approved driver education course, (4) has passed the required exam, (5) completes at least 50 hours of supervised driving practice, of which at least 10 hours are nighttime driving with a licensed instructor, a licensed driver at least 25 years of age, or the spouse of the individual who is at least 21 years of age.
  - If the individual did not complete a driver education course, the above requirements all stand, except that they are not eligible for the operator's license until they are 16 years and 270 days (*previously 16 years and 180 days of age*).

- If the individual was previously a nonresident of Indiana, is at least 16 years and 180 days of age but less than 18 years, has held an unrevoked driver's license in another state for at least 180 days and passes the required exam, they are eligible for an operator's license. If they are at least 18 years of age, and has held an unrevoked operator's, chauffeur's, commercial driver's, or public passenger chauffeur's license from another state and passed the required exam, they are also eligible.
- A license issued to an individual less than 18 years of age is a probationary license, which they can hold subject to the following conditions:
  - Nighttime Driving Restrictions
    - May not operate a motor vehicle from 10 pm until 5 am of the following morning during the first 180 days after issuance of the probationary license.
    - After 180 days and until the individual becomes 18 years of age, they may not operate a motor vehicle: (1) between 1 am and 5 am on a Saturday or Sunday; (2) after 11 pm on Sunday, Monday, Tuesday, Wednesday or Thursday, or (3) before 5 am on Monday, Tuesday, Wednesday, Thursday or Friday.
    - Can only operate a vehicle during the restricted periods above if they are participating in, going to, or returning from lawful employment, a school sanctioned activity, or a religious event. Can also operate a vehicle during these periods when they are accompanied by a licensed driver at least 25 years of age.
  - Prohibits an operator under the age of 18 from operating a motor vehicle while using a telecommunications device except for making a 911 emergency call.
  - During the 180 days after the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers until the individual becomes 18 years of age unless another individual who (1) is at least 25 years of age and holds a valid license, (2) is a certified driver education instructor, or (3) is the parent, guardian or stepparent of the operator who is at least 21 years of age is present in the motor vehicle.
    - Excludes the following individuals, whom an individual may operate a motor vehicle and transport without another accompanying individual present in the vehicle: (1) a child of the individual, (2) a sibling of the individual, (3) a child and a sibling of the individual, (4) the spouse of the individual, or (5) a child and the spouse of the individual.
  - The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle are properly restrained by a properly fastened safety belt.
  - An individual who holds a probationary license may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license or a commercial driver's license when the individual is at least 18 years of age.
  - A probationary license expires at midnight of the date 30 days after the 21<sup>st</sup> birthday of the holder and may not be renewed.
- A learner's permit expires 2 years after the date of issuance.
- Requires the State Board of Education and the Criminal Justice Institute to adopt rules specifying that the classroom portion of driver education may not be provided to a child less than 15 years and 180 days of age.
- Makes the holder of a probationary license ineligible for pretrial diversion or deferral with respect to certain alleged offenses and infractions involving motor vehicles.
- Provides that a newly licensed individual may operate a motor vehicle in which there are passengers when accompanied by a parent, guardian or stepparent of the operator who is at least 21 years of age under certain circumstances.
- Establishes the Interim Study Committee on Driver Education.

- The introduced version of this bill was prepared by the Interim Study Committee on Learner's Permits and Graduated Driver's Licenses.

**Theft of Metal (SEA 21, P.L. 158-2009)**

***Author: Karen Tallian, Brent Steele and John E. Broden***

***Sponsor: Linda Lawson***

- Expands the definition of "valuable metal", and removes the provision exempting valuable metal transactions under \$100 from reporting requirements. Also provides that a beverage can is not a "valuable metal".
- Requires a valuable metal dealer to photograph the person from whom the dealer purchases valuable metal and the valuable metal being purchased and to record the source of the valuable metal.
- Defines "key facility" and makes trespassing a Class D felony if it is committed on a facility belonging to a key facility or public utility.
- Raises theft and receiving stolen property to a Class C felony if the stolen property is a valuable metal taken from a key facility, public utility, railroad, or highway department and the absence of the metal creates a substantial risk of bodily injury to a person.
- Requires the law enforcement training board (LETB) to adopt rules to provide, as part of the in-service training program for police officers, training concerning the theft of valuable metals and the regulation of valuable metal dealers.
- *IACT Note: It is anticipated that the LETB will establish a fee for this in-service course.*

**Repossession of Motor Vehicles (SEA 174, P.L. 38-2009)**

***Author: Edward E. Charbonneau and Jim Arnold***

***Sponsor: Ron Herrell***

- Provides that a person who repossesses a motor vehicle or watercraft must, either before repossessing the motor vehicle or watercraft or not later than two hours after repossessing the motor vehicle or watercraft, provide the appropriate sheriff's department with: (1) the identity of the repossession company; (2) a description of the motor vehicle or watercraft; (3) the name and address of the person believed to be in possession of the motor vehicle or watercraft (or believed to have been in possession of the motor vehicle or watercraft); and (4) the address where the motor vehicle repossession agent found the motor vehicle or watercraft, or believes that the motor vehicle or watercraft will be found.
- Makes failure to notify a Class C infraction.

**Occupational Certification Requirements (SEA 270, P.L. 68-2009)**

***Author: Jim Arnold and Thomas J. Wyss***

***Sponsor: Vern Tincher***

- Adds: (1) a program director for an advanced life support training institution; and (2) the deputy executive director who manages the division of preparedness and training of the Department of Homeland Security, as members of the Emergency Medical Services Commission.
- Amends various provisions concerning certification and licensing requirements for: (1) emergency medical dispatchers and dispatch agencies; (2) regulated amusement device inspectors; and (3) boiler and pressure vessel inspectors.
- Repeals provisions concerning certification requirements for emergency medical dispatchers and dispatch agencies.

### **Silver Alert for Missing Endangered Adults (SEA 307, P.L. 43-2009)**

*Author: Patricia L. Miller and Vi Simpson*

*Sponsor: Dennis T. Avery*

- Requires the Law Enforcement Training Board to provide training in interacting with missing endangered adults.
- Creates the Silver Alert Program to alert the public regarding missing endangered adults.
- Renames the Indiana Clearinghouse for Information on Missing Children as the Indiana Clearinghouse for Information on Missing Children and Missing Endangered Adults (clearinghouse).
- Requires the clearinghouse to operate the Silver alert program in addition to operating the Amber alert program.

## **Transportation**

### **Off-road Vehicles, Farm Wagons and Golf Carts (HEA 1483, P.L. 150-2009)**

*Author: Don Lehe*

*Sponsor: Brandt Hershman and Richard D. Young, Jr.*

- Defines "farm wagon" as including three, four, and six wheeled motor vehicles with a folding hitch that is used for certain purposes. Prohibits a certain type of farm wagon from operation on an interstate highway, or a state highway, except under specific circumstances. Authorizes an individual at least 15 years of age to operate a motorized farm wagon on a highway. Prohibits the use of a motorized farm wagon operated on a highway to tow another vehicle.
- Prohibits an individual from operating a golf cart on a highway, except when a city or town has adopted an ordinance authorizing the use of golf carts on the city's or town's highways.
  - Specifies that an ordinance: (1) may require that a golf cart display a slow moving vehicle sign or a red or amber flashing lamp; and (2) must require an individual operating a golf cart in the city or the town to hold a driver's license.
  - Requires financial responsibility for golf carts operated pursuant to an ordinance.
  - Requires a person removing a wrecked or damaged golf cart from a highway to remove any glass or other foreign material dropped upon the highway from the golf cart.
  - Allows for a fine for violation of the traffic ordinance adopted by a city or town prohibiting the use of golf carts on the city's or town's highways or private roads or both. Also provides for a fine for violation of an ordinance requiring a golf cart to have a slow-moving vehicle emblem or a red and amber flashing lamp. Revenue from both types of violations is to be deposited into the general fund of the city or town.

### **Motor Vehicle Matters (HEA 1650, P.L. 54-2009)**

*Author: Terri Jo Austin*

*Sponsor: Thomas J. Wyss*

- Requires the Department of Administration to enter into quantity purchase agreements with vendors for the purchase of road salt.
- Provides that these quantity purchase agreements must require the vendors to offer the road salt to political subdivisions.

- Provides that political subdivisions: (1) may participate in the solicitation of purchase of road salt by submitting the estimated volume of salt use to the department; and (2) shall be committed to purchasing the minimum fill percentage submitted for solicitation.
- Establishes certain defenses for vehicle weight limit violations. Deletes certain references in vehicle law regarding criminal liability for purposes of weight limitations to bring those references into conformance with vehicle law and current case law.
- Reduces the length of time that a vehicle must sit under certain circumstances before being considered abandoned. Provides that agents of certain persons are not liable for loss or damage to a vehicle or parts occurring during the removal or storage of certain vehicles or parts. Provides that a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or textile covering is considered to be visible for purposes of determining whether a vehicle is considered abandoned.
- Specifies the responsibilities of a driver involved in a nonfatal accident.

## Utilities

### **Water Matters (HEA 1278, P.L. 172-2009)**

***Author: Milo Smith***

***Sponsor: Brent Steele, Greg Walker and Richard D. Bray***

- Effective dates: Upon Passage; July 1, 2009
- Urges the legislative council to assign to a study committee the topic of water rights, drainage, and utilities.
- Removes the Board of Works authority to condemn a water or sewer utility.
- Removes the referendum requirement for condemnation or acquisition of a water or sewer utility using the court process.
- Prohibits charging a surcharge to rate payers for the purpose of generating revenues in order to acquire the utility through eminent domain.
- *IACT Note: While this legislation removes the authority for the Board of Works to condemn a water or sewer utility, the authority still exists. A municipality must now use the court process for condemnation. The court process no longer contains the requirement for referendum prior to the utility take over.*

### **Substitute Natural Gas Contracts (SEA 423, P.L. 2-2009)**

***Author: Brandt Hershman, James W. Merritt, Jr. and Lindel O. Hume***

***Sponsor: Russell L. Stilwell***

- Effective Date: Upon Passage
- Permits the Indiana finance authority (authority) to enter into contracts for the purchase and sale of substitute natural gas (SNG) from coal gasification facilities to regulated energy utilities for delivery to retail end use customers. Requires the authority to establish the substitute natural gas account to provide funding for SNG related business

# Criminal Code Changes

## **School and Church Bus Matters (HEA 1021, P.L. 70-2009)**

***Author: Suzanne Crouch***

***Sponsor: Robert J. Deig and Vaneta Becker***

- Provides that a school bus that is used as a church bus may be equipped with red lamps or flashing lights, or both, and a stop arm if the red lamps, flashing lights, and stop arm are rendered inoperable.
- Increases the penalty for recklessly passing a stopped school bus displaying an extended arm signal device from a Class B to a Class A misdemeanor if the offense causes bodily injury to a person.
- Requires a court to recommend the driving license suspension of a person who recklessly commits certain offenses resulting in bodily injury.

## **Computer Merchandise Hoarding (HEA 1180, P.L. 79-2009)**

***Author: Sandra Blanton***

***Sponsor: Tim Lanane and Brent Steele***

- Makes it is a Class A misdemeanor to purchase, use, or distribute software designed to bypass an access control system used by the owner of a computer system to limit the amount of merchandise that one person may purchase over a computer network.
- Establishes a defense if the software is used with the permission of the owner of the computer system or if the software is used for educational or scientific purposes.

## **Fertilizer Law Matters (HEA 1191, P.L. 81-2009)**

***Author: Joe Pearson***

***Sponsor: Richard D. Young, Jr., Beverly J. Gard and Sue Errington***

- Provides that the state chemist may allow the use of technologies or methods that are not specified in rules to handle or use ammonia and ammonia solutions.
- Makes the violation of certain agriculture ammonia laws a Class C misdemeanor (current law imposes a Class C infraction) and provides that the penalty applies for a knowing or intentional violation.
- Amends various definitions to specify that the terms apply to commercial fertilizer or fertilizer material and that fertilizer material must have nutrient value.
- Requires containers that contain commercial fertilizer to have certain information on or affixed to the package.
- Allows and in certain cases requires the state chemist to adopt rules concerning the distribution of fertilizer material, to establish certification and educational programs for persons who apply fertilizer material, transport fertilizer material, or both, to the extent that the activity is for hire or the fertilizer material is from a confined feeding operation (CFO) or from an operation outside Indiana that would be a CFO if it were located in Indiana; and to establish fees for the certification and educational programs.
- Provides that the state chemist may waive all or part of the certification requirements on a reciprocal basis with any state agency or federal agency that has substantially the same certification standards.
- Amends the definition of CFO to be consistent with the federal definition of "concentrated animal feeding operation" (CAFO) and eliminates the separate CAFO references in the

requirement that the department of environmental management approve construction of a CFO.

- Allows the state chemist to impose civil penalties for violations of the commercial fertilizer laws and authorizes a schedule of civil penalties that may be imposed.

### **Various Probate and Trust Issues (HEA 1287, P.L. 143-2009)**

***Author: Trent Van Haaften***

***Sponsor: John E. Broden and Joseph C. Zakas***

- Effective dates: Upon Passage; July 1, 2009.
- Provides that a person who knowingly or intentionally uses or disburses funds in certain funeral or burial trust or escrow accounts for purposes other than the accounts' lawful purposes commits a Class C felony.
- Provides that the violation, a similar violation involving cemetery perpetual care funds, and violations of similar provisions in the funeral trust laws constitute racketeering activity.
- Provides that property involved with the violations may be seized under the civil forfeiture law.
- Specifies that the statute of limitations period for the criminal offenses of misusing funeral trust or pre-need escrow accounts is five years after the date of the death of the settlor or purchaser.
- Specifies that the statute of limitations period for the criminal offense of misusing a cemetery perpetual care fund is five years after the earlier of: (1) the date the state discovers evidence of the offense; or (2) the date the state could have discovered evidence of the offense through due diligence.
- Establishes a statutory form for a funeral planning declaration that allows a person to provide instructions concerning the person's funeral arrangements and that the declaration may be used to designate an individual who will make arrangements after the person's death.
- Provides that a person designated in a funeral planning declaration is first in the priority and that a person designated in a health care power of attorney is second in the priority of individuals who can authorize the cremation of another person's remains and who may authorize the owner of a cemetery to inter, entomb, or inurn the body or cremated remains of a deceased human.
- Specifies that a person acting as the attorney in fact under a health care power of attorney has the power to execute a funeral planning declaration on behalf of the principal.
- Provides that a person who relies in good faith on a funeral planning declaration is immune from liability to the same extent as if the person had dealt directly with the declarant and the declarant had been a competent and living person.
- Addresses other matters under the title of the bill.

### **Public Safety Matters (HEA 1428, P.L. 110-2009)**

***Author: Vern Tincher***

***Sponsor: Jim Arnold and John M. Waterman***

- Effective Date: Upon passage; July 1, 2009; January 1, 2010.
- Makes it unlawful manufacture or sale of a police or fire insignia, a Class A misdemeanor, for a person to knowingly or intentionally manufacture and sell or offer for sale: (1) an official badge or a replica of an official badge that is used by a law enforcement agency or fire department of the state or a political subdivision of the state; or (2) a document that purports to be an official employment identification that is used by a law enforcement agency or fire department of the state or a political

subdivision of the state without the written permission of the chief executive officer of the law enforcement agency or fire department or a Class D felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to commit the offense of impersonation of a public servant or a Class B felony if the person commits the offense with the knowledge or intent that the badge or employment identification will be used to commit an offense involving weapons of mass destruction.

- Requires at least 9 affirmative votes for the passage of any matter put to a vote of the Law Enforcement Training Board. (Current law requires at least 11.)
- Specifies the manner of approval for allocations from the Emergency Management Contingency Fund, and it makes certain changes relating to who is eligible to receive financial assistance from the Disaster Relief Fund.
- Provides that all amusement and entertainment permits expire one year after the date of issuance.
- Requires the Division of State Court Administration to establish and administer an electronic system for receiving information that relates to certain mentally ill individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the federal National Instant Criminal Background Check System (NICS).
- Provides that, if a court makes an adjudication or a finding concerning a person's mental health that may disqualify the person from possessing a firearm, the court shall transmit certain information concerning the finding or adjudication to the Division of State Court Administration for transmittal to NICS and it also establishes a procedure by which a person who has been released from commitment or who has completed treatment may have the person's disqualification to possess a firearm removed.
- Provides that a full-time firefighter employed after December 31, 2009, must complete the training for Firefighter I and Firefighter II during the firefighter's first year of employment as a full-time firefighter but allows the Education Board of the Division of Preparedness and Training of the Department of Homeland Security to grant six-month extensions of time to complete the training requirements for any reason.
- Requires a fire department to request the extension on behalf of a firefighter employed by the department, and it requires a fire department to report to the Board when a firefighter employed by the department has completed the training requirements.

### **Various Professions Matters (HEA 1573, P.L. 177-2009)**

***Author: Peggy Welch***

***Sponsor: Ryan D. Mishler and Vi Simpson***

- Effective Date: Upon passage; July 1, 2008 (retroactive); July 1, 2009.
- Provides that new home health agency and personal service agency employees may provide a limited criminal history or a national criminal history to the agency rather than a required national criminal history.

- Provides that a person who: uses the title of "registered interior designer," any title designation sign, card, device indicating they are a registered interior designer without registering, intentionally gives false information; impersonates another certified designer; or uses an expired, suspended, or revoked registration commits a Class B misdemeanor.
- Provides that a person using the title "genetic counselor" or "licensed genetic counselor" without a valid license or temporary license would commit a Class A misdemeanor.
- *Provides that a Massage Therapists* that does not display proof of certification when practicing commits a Class C infraction.
- Addresses other matters concerning professional licensing and other requirements.

**Assisting a Criminal (SEA 34, P.L. 159-2009)**

***Author: Richard D. Bray***

***Sponsor: Matt Pierce***

- Provides, for purposes of the crime of assisting a criminal, that it is not a defense that the person assisted has not been prosecuted, has not been convicted, or has been acquitted by reason of insanity. It does
- permits the acquittal of the criminal suspect that the person assisted for other reasons to be a defense.

**Various Corrections and Criminal Matters (SEA 223, P.L. 128-2009)**

***Author: Jim Arnold and R. Michael Young***

***Sponsor: Vern Tincher***

- Effective date: Upon passage; July 1, 2009
- Provides that an offender who has filed at least three civil actions that have been dismissed as frivolous may not file a new complaint or petition as an indigent person unless the offender is in immediate danger of serious bodily injury.
- Makes trafficking with an inmate (which is, without enhancement, a Class A misdemeanor) a Class C felony if the item trafficked is a cellular telephone.
- Makes it a Class A misdemeanor if a person possesses in or carries into a penal facility or a juvenile facility a controlled substance or a deadly weapon.
- Requires the sentencing policy study committee to evaluate whether the state should pay all costs of trial in a prosecution for an offense committed at a state correctional facility.

**End of Route Inspection by Bus Drivers (SEA 228, P.L. 39-2009)**

***Author: Connie W. Sipes, Thomas J. Wyss and Teresa S. Lubbers***

***Sponsor: Gregory W. Porter***

- Requires the operator of a school bus or special purpose bus to visually inspect each seat within the bus at the end of each trip during which passengers are transported to determine that no passengers remain on the bus.
- Requires the owner of a school bus or special purpose bus to report each incident in which a passenger is left on the bus to the superintendent or superintendent's designee.
- Requires the superintendent or superintendent's designee to report each incident in which a passenger is left on the bus to the department of education.
- Makes a violation of these provisions a Class C infraction.

**Sentence Enhancement for Feticide (SEA 236, P.L. 40-2009)**

*Author: James W. Merritt, Jr.*

*Sponsor: Linda Lawson*

- Provides that a person who, while committing or attempting to commit murder or felony murder, causes the termination of a human pregnancy may be sentenced to an additional term of imprisonment of six to 20 years.
- Increases the penalty for feticide from a Class C felony to a Class B felony.